

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9465 OF 2025

Gorakshan Panjarpol Sanstha Ghodnadi
Versus
The Municipal Council, Shirur and Ors.

...Petitioner
...Respondents

Mr. Anuj Tiwari i/b Mr. Vivek V. Salunke, for Petitioner.
Mr. Satish Raut, for Respondent Nos. 1 and 2.
Mr. Y.D. Patil, AGP for Respondent-State.
Mr. Jaydeep Deo a/w Mr. Onkar Gawade, for Respondent No.4.

CORAM: G. S. KULKARNI &
ARIF S. DOCTOR, JJ.

DATE: 11th AUGUST 2025

P.C.

1. By this Petition filed under Article 226 of the Constitution of India the
Petitioner has sought the substantive following reliefs:-

“a. By suitable writ, order or direction this Hon'ble Court may be pleased to direct the Respondents to forthwith take action against all the unauthorized constructions in question on the land belonging to the present Petitioner bearing Survey No. 276 situated at village Shirur (Ghodnadi), Taluka Shirur, District: Pune and demolish the same and it may further be directed to submit the compliance report in that regard before this Hon'ble Court;

b. By suitable writ, order or direction this Hon'ble Court may be pleased to direct to hold the necessary inquiry against the officers of the Respondent Municipal Council as to why the action was not taken by fulfilling the mandate of Maharashtra Regional Town Planning Act, 1966 and by following the directive given by this Hon'ble Court vide order dated 18/10/2000 in Writ Petition No. 4827 of 2000;

c. By suitable writ, order or direction this Hon'ble Court may be pleased to direct the Respondent Nos. 1 and 2 to forthwith act on the representation/notice dated 09/10/2024 submitted by the Petitioner.

d. Pending the hearing and final disposal of the present Petition, this Hon'ble Court may be pleased to direct the Respondents to forthwith

take action against all the unauthorized constructions in question on the land belonging to the present Petitioner bearing Survey No. 276 situated at village Shirur (Ghodnadi), Taluka Shirur, District: Pune and it may be directed to submit the compliance report in that regard before this Hon'ble Court;

e. Pending the hearing and final disposal of the present Petition, this Hon'ble Court may be pleased to direct to hold the necessary inquiry against the officers of the Respondent Municipal Council as to why the action was not taken by fulfilling the mandate of Maharashtra Regional Town Planning Act, 1966 and by following the directive given by this Hon'ble Court vide order dated 18/10/2000 in Writ Petition No. 4827 of 2000;

f. Ad-interim reliefs in terms of prayer clause (d) and (e) above be granted.

g. Such other and further reliefs be granted as the nature and circumstances of the case may require.”

2. This Petition cannot be entertained on three grounds. *Firstly*, the Petitioner's cause of action is stated to be an order dated 18th October 2000 passed by the Division Bench of this Court in Writ Petition No.4827 of 2000 (Exhibit “B” to the Petition). The Petitioner has approached this Court almost 25 years after this Order was passed. We find absolutely no explanation for this delay in the Petition and thus the Petition suffers from gross delay and laches.

3. The *second* reason is we find that there is already a Regular Civil Suit No. 267 of 2001, which was filed by the added Respondent No.4, in which the following prayers (as translated) were already made before the Court: -

“Therefore, the Plaintiff prays as under :-

A) It may be declared that the lands purchased by the Plaintiff and involved in dispute (mentioned in the Notice dated 20.04.01 issued by the Defendant) are located in the land bearing S.No.279/1 itself.

B) It may be declared that the Defendant – Municipality has granted sanction to the structure in dispute.

C) It may be declared that the Defendant does not have right or powers to take an action of demolishing the structures in dispute.

D) The Defendant may be warned as per the provisions of the Law not to take action of demolishing the structures by itself or through its employees or through others.

E) In view of the above-mentioned Prayer Clause D, Interim Injunction Order may be passed till this Suit is finally decided.

F) The entire costs of this Suit may be awarded from the Defendant to the Plaintiff.

G) Other just and proper orders as may deem fit by the Hon'ble Court may be passed in this Suit."

Thus it is always open to the Petitioner to apply for reliefs in the said Suit..

4. *Third*, the Petitioner has specifically prayed for the issuance of Writ of Mandamus. However, we find from the perusal of the Writ Petition that the Petitioner has not made any representation and/or demand for justice whatsoever. It is well settled that before seeking a Writ of Mandamus it is incumbent upon a Petitioner to first make demand for justice which in the present case is clearly absent.

5. Thus, looked at from any angle, this Petition itself is not maintainable. The extraordinary jurisdiction of this Court under Article 226 of the Constitution of India cannot be exercised. The Petition is rejected.

6. No costs.

7. We kept open all the contentions of the parties in the said Civil Suit or any remedy available to the parties in the law.

(ARIF S. DOCTOR, J.)

(G. S. KULKARNI, J.)