

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.10215 OF 2025

Irshad Nurddin Mujawar and others	]	Petitioners
Vs.		
The State of Maharashtra through its Urban	]	
Development Department and others	]	Respondents

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Mr. Valmiky Narvekar i/b Mr. Mohammad S. Mulla, for Petitioners.

Ms. M.P. Thakur, A.G.P, for Respondents No.1,3 and 4.

Mr. Shekhar Jagtap a/w Mr. Tanmay Tendulkar and Mr. Ajit Hon i/b Mr. Shekhar Associates, for Respondent No.2.

Mr. Ramakant Doke, Chief Officer, Akkalkot Municipal Council present.

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**CORAM : G.S. KULKARNI &
ARIF S. DOCTOR, J.J.**

DATE : 24th JULY, 2025.

P.C:

1. This petition under Article 226 of the Constitution of India is filed praying for the following substantive reliefs;

“a. That this Hon’ble Court be pleased to issue a writ of mandamus or any other appropriate writ, order or direction thereby directing the Respondent No.2 to forthwith withdraw the impugned notice dated 13.07.2025 calling upon the Petitioners to remove their structures within 15 days.

b. That this Hon’ble Court be pleased to issue an appropriate writ, order or direction thereby quashing and setting aside the impugned notice dated 13.07.2025 calling upon the Petitioners to remove their structures within 15 days.”

2. At the outset, we note that the action which is assailed by the petitioners is an action resorted to by respondents No.1 and 2 – Akkalkot Municipal Council (for short “Municipal Council”) whereby notice has been issued to the petitioner under section 53 (1A) of the Maharashtra Regional Town Planning Act, 1966 calling upon the petitioners to remove unauthorized structures as constructed by them. The basic ground being that no construction permission whatsoever was obtained in putting up such illegal structures.

3. We may observe that Mr. Jagtap, learned Counsel for the Municipal Council contends that the notice structures are all commercial structures which had been admittedly put up without obtaining any prior permission from the Municipal Council. He has also drawn our attention to the photographs of these structures. Case of the petitioners is that they have been permitted to use the land on which such structures are put up by a Trust which is conducting Shal Safil Dargah and its Mosque. The petitioners, therefore, are certainly not the owners of the land on which such structures are put up. If at all, they have some contractual rights either as a licensee or the tenants of the Trust, it is for the petitioners to resort to appropriate proceedings against the Trust, however, subject matter of the present petition is completely different as it touches the Municipal administration of the Municipal Council of illegal and unauthorized structures being put up.

4. We may further observe that this not the first occasion the petitioners have approached this Court. The earlier Writ Petition filed by the petitioners was Writ Petition No.9205 of 2025 which was recently disposed of by us on the same cause of action by an order dated 7th July, 2025 in terms of the following order;

“1. Not on board taken on board on a praecipe as moved on behalf of the petitioners.

2. We have heard Mr. Sakhare, learned Senior Counsel for the petitioners, Mr. Hon, learned Counsel for respondent No.2-Chief Officer, Akkalkot Municipal Council, and Ms. Thakur, learned AGP for the State-Respondent Nos1, 3, and 4.

3. This petition under Article 226 of the Constitution of India primarily challenges the notice dated 4 July 2025 issued by respondent No.2 under Section 53(1A) of the Maharashtra Regional and Town Planning Act, 1966. At the outset, Mr. Sakhare would submit that there are developments subsequent to the filing of this petition inasmuch as by a communication dated 7 July 2025, the impugned notice under Section 53(1A) of the MRTP Act has been withdrawn by respondent No.2. A copy of the same is placed on record. This fact is also confirmed by learned Counsel for respondent No.2. Mr. Sakhare, however, submits that there is further notice issued by respondent No.2 dated 7 July 2025 whereby the petitioners have been called upon to submit certain documents, but the notice is silent as to under which provision the same has been issued. Mr. Sakhare's contention is that the respondents ought not to proceed under such communication and take any coercive action of demolition against the petitioners.

4. On a plain reading of the said notice dated 7 July 2025 as produced by Mr. Sakhare, it is seen that it is a

notice calling upon the petitioners to remain present on 9 July 2025 at 3.30 p.m. with all documents in relation to the constructions in question, the property documents as set out in the second paragraph of the said notice. Let the petitioners submit all such documents for examination of respondent No.2, and on consideration of such documents and after granting an opportunity of a hearing to the petitioner in the manner known to law, if any action is being intended to be taken by respondent No.2 to demolish the construction, respondent No.2 shall follow the due procedure in Law by issuing an appropriate notice of demolition. All contentions of the parties in that regard are expressly kept open.

5. In the event of any order adverse to the petitioners, is passed by respondent No.2 directing removal of such constructions, reasonable time be granted to the petitioners to vacate the premises which shall be minimum 15 days. We keep open all the contentions of the parties.

6. In this view of the matter, further adjudication of the present petition is not called for. The petition is accordingly disposed of in the above terms. No costs”.

7. Parties to act on the authenticated copy of the order”.

5. As clearly seen from the observations of the Court in paragraphs 3 and 4 of the aforesaid order, an opportunity was granted by this Court to the petitioners to produce all the documents which would show that construction which has been put up was lawful or permitted by the Municipal Council. Such materials were to be placed at the hearing of the said notice under Section 53 (1A) of the M.R.T.P Act which was scheduled to be held on 9th July, 2025, however, no such material was placed before the Designated Officer of the

Municipal Council, on such date, and in fact an adjournment was sought for a period of one month. This approach of the petitioners was wholly contrary to what was observed by the Court. It appears that the petitioners do not have any permissions or any material to show that the structures are lawful. This is also clear from the contentions as urged by the learned Counsel for the petitioners when he contends that the petitioners have made applications to the Municipal Council under the Right to Information Act and are awaiting response and hence the petitioners sought adjournment on 9th July, 2025. He says that it is for such reason they could not place the documents before the designated officer. This is really a surprising stand. What was necessary for the petitioners was to produce all materials and documents to show that the construction which was put up is lawful and/or permissions were granted by Municipal Council. The petitioners have miserably failed to do so.

6. In this view of the matter, we do not find that there is any error, much less any illegality in the impugned notice dated 13th July, 2025 issued to the petitioners calling upon them to remove their structures. The Writ Petition is wholly misconceived. It is accordingly rejected. The Municipal Council is free to take action in accordance with law. No costs.

[ARIF S. DOCTOR, J.]

[G.S. KULKARNI, J.]