

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

WRIT PETITION NO. 15958 OF 2025

Shri. Navnath Ramkrishna Mhatre And Ors. ...Petitioners

Versus

Kalyan Dombivali Municipal Corporation
And Ors. ...Respondents

**WITH
WRIT PETITION NO. 11454 OF 2025**

M/s. Vaishnavi Engineers & Developers Pvt. Ltd. ...Petitioner

Versus

Kalyan Dombivali Municipal Corporation
And Ors. ...Respondents

Mr. Pandit Kasar, Advocate for the Petitioners in WP/15958/2025 and for
Respondent Nos. 2 to 5 in WP/11454/2025.

Mr. Amit A. Karva, Advocate for the Petitioner in WP/11454/2025.

Mr. Rohit Sakhadeo, Advocate for the KDMC/Respondent No. 1 in
WP/11454/2025 and for the KDMC/Respondent Nos. 1 to 4 in
WP/15958/2025.

Mr. V. G. Badgujar, AGP for the State/Respondent in WP/15958/2025.

**CORAM : RAVINDRA V. GHUGE &
ASHWIN D. BHOBE, JJ.**

DATE : 9th DECEMBER, 2025.

P.C. :

1. Heard learned Advocates for the parties in both the Petitions.
Learned Advocates submit that the subject matter and the issues involved
in both the Petitions are similar, as such, request that both the Petitions be

disposed of by a common order.

2. Petitioners in Writ Petition No. 15958 of 2025 assail the demolition orders dated 20/06/2024 & 06/10/2025 issued by Respondent No. 1-Corporation, directing demolition of the structure(s) situated in property bearing Survey No. 85/2/1B at Mauje Gaondevi, Taluka-Kalyan (writ structure). Petitioners are further aggrieved by the non-consideration of their application for regularization of the writ structure. Petitioners therefore seek the following relief :-

“a. By an order of this Hon'ble Court, notice dated 20/06/2025 bearing outward No. KDMC/7/H/OW/135 and notice dated 10/07/2025 bearing No. KDMC/1738 and notice dated 25/08/2025 bearing outward No. KDMC/2540 and notice dated 06/10/2025 bearing No. KDMC/H/OW/287 may be quashed and set aside with immediate effect.”

3. Petitioner in Writ Petition No. 11454 of 2025 is aggrieved by the inaction/delay on the part of Respondent No. 1-Corporation in acting against the writ structure, which the Petitioner claims to be illegal/unauthorised. Petitioner has sought for the following reliefs :-

“a) Issue a Writ of Mandamus or any other appropriate writ, order or direction, directing Respondent No. 1-KDMC to forthwith take coercive action and demolish the unauthorized and illegal constructions carried out by the Respondents on the said land bearing Survey No. 273 (Old) / 85 (New), Hissa No. 2/1/B and 2/1/C at Mauje Gaondevi, Tal. Kalyan, Dist. Thane.

b) Direct Respondent No. 1 to act upon the Petitioner's representations and complaints.”

4. Mr. Pandit Kasar learned Advocate for Petitioners in Writ Petition No. 15958 of 2025, submits that the writ structure is the only residential house of the Petitioners, which is in existence for the last 55 years. He submits that the Petitioners upon receipt of the demolition

order dated 20/06/2024 had immediately made a request for regularization of the writ structure. He by relying on documents at pages 147 to 151 of the Petition paper book submits that despite Petitioners having complied with the requisition of documents as called by the Respondent No. 1, the regularization application is not decided. He submits that the writ structure is capable of being regularized. He submits that Respondent No. 1 ought to have considered the Petitioners request for regularization before implementing the demolition orders.

5. Mr. Rohit Sakhadeo, learned Advocate for Respondent No. 1-Corporation and Mr. Amit A. Karva, learned Advocate for the Petitioner in WP/11454/2025, dispute the claim of the Petitioners in Writ Petition No. 15958 of 2025, with reference to the legality of the writ structure. They submit that the writ structure is illegal, as such, ordered to be demolished by following the due process of law.

6. Mr. Amit A. Karva, submits that the act of the Petitioners in Writ Petition No. 15958 of 2025, in applying for regularization is an indication and acknowledgment of the writ structure being illegal and unauthorized. He, by referring to the averments in his Writ Petition No. in WP/11454/2025, submits that grave prejudice is being caused to the Petitioner on account of continuation of the writ structure which is held to be illegal. He submit that the application for regularization filed by the Petitioners in Writ Petition No. 15958 of 2025 is to delay the implementation of the demolition order.

7. From the documents at pages 147 and 151 of the Petition paper book, the application for regularization filed by the Petitioners in Writ Petition No. 15958 of 2025 appears to be pending before Respondent No. 1-Corporation. Mr. Rohit Sakhadeo, learned Advocate for Respondent

No. 1-Corporation tenders a copy the letter dated 08/10/2025 issued by Respondent No. 1-Corporation. The concluding paragraph of the letter dated 08/10/2025 reads as follows:-

"श्री नवनाथ रामकृष्ण म्हात्रे व इतर यांचे वतीने कुळमुखत्यारधारक श्रीमती अश्विनी सुरेश म्हात्रे यांनी आपल्या विभागाकडे बांधकाम नियमानुकूल बाबतचा सादर केलेल्या अर्जाची सद्य स्थिती बाबत माहिती मिळणे आवश्यक असल्याने. सदर माहिती तात्काळ मिळावी जेणेकरून पुढील कार्यवाही करणे शक्य होईल."

8. Mr. Pandit Kasar, submits that the demolition order be kept pending and the Petitioners in Writ Petition No. 15958 of 2025 be afforded a last opportunity to seek regularization of the writ structure.

9. The dispute in both the Petitions revolves around the legality of the writ structure which is subject matter of the demolition order(s) dated 20/06/2024 & 06/10/2025 issued by Respondent No. 1-Corporation.

10. The Hon'ble Supreme Court in the case of **Syed Muzaffar Ali v/s. Municipal Corporation of Delhi**¹ in paragraph nos. 4 & 5 has observed as follows :-

"4. However, it is to be pointed out that the mere departure from the authorized plan or putting up a construction without sanction does not ipso facto and without more necessarily and inevitably justify demolition of the structure. There are cases and cases of such unauthorized constructions. Some are amenable to compounding and some may not be. There may be cases of grave and serious breaches of the licensing provisions or building regulations that may call for the extreme step of demolition.

5. These are matters for the authorities to consider at the appropriate time having regard to nature of the transgressions. It is open to the petitioners to move the authorities for such relief as may be available to them at law. The petitioners may, if so advised, file a plan indicating the nature and extent of the unauthorised constructions carried out and seek regularisation, if such regularisation is permissible. The dismissal of the petitions will not stand in the way of the authorities

1. 1995 Supp (4) SCC 426.

examining and granting such relief as the petitioners may be entitled to under law. The petitioners may move the authorities in this behalf within one week for such compounding or regularisation and also for stay of demolition pending consideration of their prayer. During the period of one week from today, however, no demolition shall be made.”

11. In the peculiar facts of the present case and considering the Petitioners having applied for regularization of the writ structure at the first available opportunity, we dispose of the present Petitions by consent of the parties, on the following terms :-

a. Mr. Pandit Kasar on instructions from the Petitioners in Writ Petition No. 15958 of 2025 states that the Petitioners shall file a fresh application before Respondent No. 1-Corporation, with all the required supporting documents, seeking regularization of the writ structure in respect of deviations, which are compoundable in terms of the Building Rules and Regulations. Mr. Pandit Kasar states that such application will be filed before the Respondent No. 1-Corporation on or before 5.00 p.m. on 11/12/2025.

b. Mr. Pandit Kasar, on instructions from the Petitioners in Writ Petition No. 15958 of 2025 states that the application for regularization will be restricted to the deviations which are compoundable in terms of the Building Rules and Regulations. The deviation/structure, which by its nature are not compoundable, shall be demolished by the Petitioners themselves on or before 31/12/2025, at their own costs.

c. If an application for regularization is filed by the Petitioners in Writ Petition No. 15958 of 2025, on or before 5.00 p.m. of 11/12/2025 and the said application, Respondent No. 1-Corporation shall consider the same strictly in accordance with the applicable Building Rules and Regulations and dispose off the same with an order on or before

15/01/2026. Decision of Respondent No. 1-Corporation shall be communicated to the Petitioners on or before 17/01/2026. Respondent No. 1–Corporation to strictly comply with the the schedule fixed herein.

d. Respondent No. 1-Corporation shall not take any coercive steps in respect of the writ structure till 17/01/2026.

12. Both the Writ Petitions are disposed off in the above terms.

[ASHWIN D. BHOBE, J.]

[RAVINDRA V. GHUGE, J.]

GITALAXMI
KRISHNA
KOTAWADEKAR

Digitally signed by
GITALAXMI KRISHNA
KOTAWADEKAR
Date: 2025.12.11
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