

Priya Soparkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11749 OF 2025

M/s Samata Kitchen Interior Product ...Petitioner
Versus
The State of Maharashtra and ors. ...Respondents

Mr. Shrirang Katneshwarkar with Mr. Sandeep Gupta and Mr. Vivek Chauhan, for the Petitioner.
Mr. Pratik Irpatgire, for the Respondent No.5.
Dr. Dhruti M. Kapadia, AGP, for the State.

**CORAM: SUMAN SHYAM &
S. M. MODAK, JJ.**

DATED: 03rd NOVEMBER, 2025.

PC:-

1. By filing this Writ Petition, the demand notices dated 15th July, 2025 and 21st August, 2025 issued by the Tahasildar, Ulhasnagar to the Petitioner as well as the order dated 21st May, 2025, by means of which penalty of Rs.56,63,070/- had been levied for illegal excavation of earth, have been put under challenge.

2. It appears that the work of construction of “Babasaheb Ambedkar Research & Training Institute (BARTI) Training Centre- Boys and Girls hostel for Trainees at Ulhasnagar-5, District-Thane” was issued in favour of the Respondent No.5 on 15th February, 2024. It is the admitted position of the fact that the work in

question is being executed by the Respondent No.5 i.e. M/s Siddhivinayak Engineers and Contractors which is a partnership firm. Therefore, liability, if any, for alleged illegal excavation of earth and payment of penalty under Land Revenue Code, if established, would also evidently fall upon the Respondent No.5. It is on such count, the Petitioner has approached this Court assailing the impugned demand notices/order contending that the Petitioner, being a separate legal entity, does not have any liability in the matter. The learned counsel for the Respondent No.5 has also confirmed that the work is being executed by his client which is separate partnership firm and hence, another legal entity.

3. Dr. Dhruti M. Kapadia, learned AGP appearing for the State submits that if that be the case, the matter ought to have been pointed out before the authority which the Petitioner has failed to do. Moreover, it is submitted that one of the partner being common, the Petitioner had also represented the Respondent No.5 before the authority at some stage.

4. Be that as it may, since there is no dispute about the fact that the work is being executed by the Respondent No.5, the excavation, if any, is also being carried out by the Respondent No.5 and not by the Petitioner. The Respondent No.5 being a registered partnership firm and therefore, a separate legal entity, liability, if any, for illegal excavation of earth would also fall upon the Respondent No.5 and not upon the Petitioner, which is not executing the work in question. Merely because there is a common partner in both the firms, that by itself would not mean that the

Petitioner can be saddled with any liability, in a manner which has been sought to be done in the present case.

5. In view of the above, we set aside the impugned demand notices as well as the order dated 21st May, 2025. Liberty is however, granted to the official Respondents to issue fresh notice upon the Respondent No.5, in accordance with law, if so advised.

6. Needless to say, upon receipt of such notice, the Respondent No.5 would be at liberty to avail legal remedy in the matter as may be permissible under the law.

7. With the above observation, the Writ Petition stands disposed of.

(S. M. MODAK, J.)

(SUMAN SHYAM, J.)