

Digitally signed by
ANANT KRISHNA
NAIK

Date: 2025.12.16
15:32:55 +0530

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
(30) FIRST APPEAL NO. 2388 OF 2025
WITH
INTERIM APPLICATION NO. 13093 OF 2025**

Mrs. Suman Narayan Gharat ...Appellant
Versus
The Municipal Corporation Of Greater Mumbai ...Respondent

**AND
(31) FIRST APPEAL NO. 2389 OF 2025
WITH
INTERIM APPLICATION NO. 13095 OF 2025**

Mr. Bapu Laxman Mane ...Appellant
Versus
The Municipal Corporation Of Greater Mumbai ...Respondent

**AND
(32) FIRST APPEAL NO. 2391 OF 2025
WITH
INTERIM APPLICATION NO. 13113 OF 2025**

Vinod Janardan Gawand (deleted Since Deceased)
Thr.1.1 Mrs. Pratibha Vinod Gawand (wife) & Anr. ...Appellants
Versus
The Municipal Corporation Of Greater Mumbai ...Respondent

Adv. S. K. Dubey for the Appellants/Applicants in all FAs
Adv. Pallavi Khale i/b. Adv. Komal Punjabi the Respondent-BMC

CORAM : M. M. SATHAYE, J.

DATED : 15th DECEMBER 2025

P.C.:

1. Heard learned counsel for the parties. Considering peculiar facts, the appeals are taken up for final disposal.
2. FA/2388/2025 is filed challenging the judgment and decree dated

25/09/2025 passed by City Civil Court, Mumbai in the Suit No. 811 of 2015. FA/2389/2025 is filed challenging the judgment and decree dated 25/09/2025 passed by City Civil Court, Mumbai in the Suit No. 810 of 2015. FA/2391/2025 is filed challenging the judgment and decree dated 25/09/2025 passed by City Civil Court, Mumbai in the Suit No. 809 of 2015

3. By the aforesaid impugned judgments/decrees, the respective suits have been dismissed. Appellants are Plaintiffs in the said Suits.

4. The Appellants filed the said suits seeking declaration that notices dated **12/02/2015 and 05/03/2015** under section 55 of the Maharashtra Regional and Town Planning Act, 1966 ('MRTP Act' for short) are illegal and for perpetual injunction restraining the Respondent from demolishing notice structures. Apparently notices are issued by the Respondent-Municipal Corporation.

5. The Trial Court framed issues, however no issue regarding jurisdiction is framed and the issue is framed whether the suit is bad want of notice u/s. 527 of the Mumbai Municipal Corporation Act ('MMC Act' for short). Apparently, the suit notices are not issued under MMC Act and the same is issued u/s. 55 of the MRTP Act. Therefore, issues are not property famed.

6. However, it is seen from the body of the impugned judgments that the Trial Court considered the bar created u/s. 149 of the MRTP Act and held in paragraph 34/36/38 that it does not have jurisdiction. It is not clear if the parties knew (through issues) that bar of jurisdiction was under consideration.

7. On a query by the Court, learned counsel for the Respondent Municipal corporation, orally submitted that Respondent Corporation is

competent to issue notice u/s. 55 of MRTP Act, based on some circular. It is however not produced. From the impugned Judgments also, it is not seen that this aspect is considered.

8. Recently this Court (Coram : Sandeep V. Marne J) in the case of **Nashik Municipal Corporation vs. Sunil Baburao Kshirsagar (CRA/153/2016 order dated 21/11/2025)**, after considering various earlier judgments on the subject of bar of jurisdiction in such cases, under various Acts, has reiterated guidelines / conclusions in paragraph 36 thereof.

9. In the aforesaid facts and circumstances, in my view, it is necessary to remand the matters for framing proper issues and fresh consideration, in the light of observations in paragraph 36 of **Nashik Municipal Corporation vs. Sunil Baburao Kshirsagar (supra)**.

10. Therefore, these Appeals are disposed of by passing the following order.

(a) The impugned judgments and decrees dated 25/09/2025 in Suit Nos. 809, 810 and 811 of 2015 are set aside. The Suits are remanded for reconsideration in view of what is observed above.

(b) Issue regarding bar under MRTP Act / jurisdiction shall be framed. The aspect regarding competence of the Respondent-Municipal Corporation to issue notice under section 55 of the MRTP Act shall also be considered.

(c) Needless to mention that interim relief, if any, existed during the pendency of the suit, shall continue

during pendency of suit.

(d) The Appellants are directed to appear before the Trial Court on 05/01/2026.

(e) It is clarified that since the suits are being remanded on legal aspects of bar u/s. 149 of the MRTP Act and competence of the Respondent-Corporation to issue notice u/s. 55 of the MRTP Act only, the Trial Court shall hear the submissions of the parties and proceed to decide the suit expeditiously, within a period of 6 months from 05/01/2026, **on the basis of evidence available on record.**

9. In view of the disposal of the above First Appeals, all pending Interim Applications are also disposed of in above terms.

10. All concerned to act on duly authenticated or digitally signed copy of this order.

(M. M. SATHAYE, J.)