

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

PUBLIC INTEREST LITIGATION NO. 98 OF 2025

Pramod (Raju) Ratan Patil

.. Petitioner

Vs.

State of Maharashtra & Ors.

.. Respondents

...

Mr. M. A. Khan a/w Ms. Deepti Mehta, Advocates for the Petitioner.

Mrs. M. P. Thakur, AGP for the Respondent No.1-State.

...

**CORAM : SHREE CHANDRASHEKHAR, CJ &
GAUTAM A. ANKHAD, J.**

DATE : 23rd SEPTEMBER 2025.

P.C. :

This writ petition has been filed seeking a direction to the respondent nos.1 to 3 who are primarily the Municipal Corporation of Kalyan Dombivali and the Maharashtra State Road Development Authority to conduct an inquiry as to why the order dated 21st January 2020 has not been complied.

2. The learned counsel for the petitioner endeavoured to demonstrate before this Court that on account of the illegal construction raised over the subject land the construction of a flyover has been hindered and the inhabitants of the locality are facing serious difficulty. The learned counsel for the petitioner further stated that there have been incidents of accidents everyday on account of the illegal construction and encroachments over the road.

3. In this writ petition, the following prayers have been made: -

- “b. That this Hon’ble Court be pleased to issue a Writ of Mandamus or any other Writ, Order or Direction under Article 226 of the Constitution of India directing Respondents to 1 to 3 to conduct enquiry of failure to act upon order dated 21.1.2020.*
- c. That pending the hearing and final disposal of this Petition, Respondent No.5 and 6 themselves, their agents worker or any person acting for them be restrained by an order and injunction from further carrying out any construction upon suit land.*
- d. For interim and ad-interim relief in terms of prayer clauses (d) be granted;*
- e. Cost of this Petition be provided for;*
- f. Any other and further reliefs as this Hon’ble Court may deem fit and proper in the circumstances of this case be granted.”*

4. The public interest litigation petitioner, who said to have been elected as the Member of Legislative Assembly from Maharashtra Nav Nirman Sena party, claims that he has filed this petition seeking demolition of construction, *albeit* illegal, on the subject land under Survey No.211 Hissa No.1A in village Nilje on Kalyan Shil Road, Dombivali (W), Thane. This petition is bereft of foundational facts inasmuch as it is not disclosed by him when these constructions were raised. As to the order dated 21st January 2020, we may indicate that the said order has been passed under section 478 of the Maharashtra Municipal Corporation Act after notice to the parties concerned under sections 260 and 267(1) thereof. As to the enforcement of this quasi-judicial order passed by the Zonal Officer, 10(E) of Kalyan Dombivali Municipal Corporation, we are inclined to observe that a public interest litigation shall not lie. This is quite well settled that a writ petition labeled as the public interest litigation shall not be entertained where the parties approached the statutory Authority or the Civil Court for adjudication of their rights [Refer, “*P. R. Narahari Rao v. State of Kerala*” (2012) 6 SCC 506]. There is no public interest involved in this writ petition where one of the prayers is to restrain

the respondent nos.5 and 6 and their agents, workers or any person acting on their behalf from carrying out any construction on the subject property and, thus, seeks an order of injunction against the respondent nos.5 and 6. No such prayer can be entertained in a writ petition labeled as public interest litigation.

5. We may also observe that some difficulty to a section of the society is not a ground to entertain the public interest litigation. The object behind entertaining a public interest litigation is to ensure that the voice of the unprivileged section of the society is heard in a Court of law and the remedial direction is issued to redress their grievance. This writ petition seems to be with oblique motive inasmuch as there is a reference to the representation made by Lodha Haven Residential Association.

6. In “*Jaipur Shahar Hindu Vikas Samiti v. State of Rajasthan & Ors.*” (2014) 5 SCC 530, the Hon’ble Supreme Court has observed as under: -

“49. The concept of public interest litigation is a phenomenon which is evolved to bring justice to the reach of people who are handicapped by ignorance, indigence, illiteracy and other downtrodden people. Through the public interest litigation, the cause of several people who are not able to approach the court is espoused. In the guise of public interest litigation, we are coming across several cases where it is exploited for the benefit of certain individuals. The courts have to be very cautious and careful while entertaining public interest litigation. The judiciary should deal with the misuse of public interest litigation with iron hand. If the public interest litigation is permitted to be misused the very purpose for which it is conceived, namely, to come to the rescue of the poor and downtrodden will be defeated. The courts should discourage the unjustified litigants at the initial stage itself and the person who misuses the forum should be made accountable for it. In the realm of public interest litigation, the courts while protecting the larger public interest involved, should at the same time have to look at the effective way in which the relief can be granted to the people whose rights are adversely affected or are at stake. When their interest can be protected and the controversy or the dispute can be adjudicated by a mechanism created under a particular statute, the parties should be relegated to the appropriate forum instead of entertaining the writ petition filed as public interest litigation.”

7. For the aforesaid reasons, Public Interest Litigation No.98 of 2025 is dismissed.

[GAUTAM A. ANKHAD, J.]

[CHIEF JUSTICE]

PRAVIN
DASHARATH
PANDIT

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by PRAVIN
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