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

**INTERIM APPLICATION NO.129 OF 2025  
IN  
PUBLIC INTEREST LITIGATION NO.49 OF 2021**

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| Pranav Patil & Ors.             | ... Applicants  |
| <b>In the matter between</b>    |                 |
| Sandeep Pandurang Patil         | ... Petitioner  |
| <b>V/s.</b>                     |                 |
| The State of Maharashtra & Ors. | ... Respondents |

Mr. Anshul Anjarlekar with Ms. Sanika Athalye i/by  
Raval Shah & Co., for the applicants.

Smt. Neha S. Bhide, Government Pleader with Mr. O.A.  
Chandurkar, Additional G.P. and Smt. G.R.  
Raghuwanshi, AGP for respondent Nos.1 and 3-State.

Mr. A.S. Rao for respondent Nos.4 and 11.

**CORAM : A.S. GADKARI AND  
AMIT BORKAR, JJ.**

**DATED : FEBRUARY 13, 2025**

**Order: (Per Amit Borkar, J.)**

1. The Applicants have filed the present interim application seeking the relief of quashing and setting aside the Order dated 19th November 2024, passed by this Court in Public Interest Litigation No.49 of 2021, in relation to the structure known as Sai Galaxy, situated at Survey No.29, II No.5 Part, Village Ayare, Taluka Kalyan, District Thane. Additionally, the applicants have prayed for various other reliefs, including directions to the respondent authorities to consider their grievances in light of their

rights and principles of natural justice.

2. The reason for filing the present interim application, according to the applicants, emanates from clause (6) of paragraph 22 of the judgment and order dated 13th December 2024, whereby the applicants' Society was directed to show cause, as to why eviction proceedings should not be initiated against them. Pursuant to the said order, the applicants responded to the show-cause notice on 19th December 2024, wherein they sought disclosure of essential documents, namely, (i) notice under Section 260 of the Maharashtra Municipal Corporation Act, 1949, (ii) notice under Section 478 of the Maharashtra Municipal Corporation Act, 1949, (iii) documents pertaining to the registration of Case No.422 of 2022 under the provisions of the Maharashtra Regional Town Planning Act, 1966 at Ramnagar/Tilaknagar Police Station, Dombivli East, and (iv) papers related to Public Interest Litigation No.49 of 2021.

3. The applicants submit that they had lawfully purchased residential flats in the subject building during the years 2019 and 2020 through registered instruments, relying upon official approvals and permissions purportedly granted by the concerned statutory authorities. However, they now claim that the authenticity of certain foundational documents, such as the Intimation of Disapproval (IoD), Commencement Certificate (CC), Occupation Certificate (OC), and the Non-Agricultural (N.A.) assessment Order passed by the Collector, Thane, is in doubt. The applicants contend that the failure of respondent No.4 - Municipal Corporation, in effectively regulating and monitoring the

construction activities has resulted in grave prejudice to them. It is further urged that, reputable financial institutions and banks have sanctioned home loans to them after due diligence, thereby reinforcing their bona fide belief in the legality of the construction. The applicants assert that before the pronouncement of the Judgment and Order dated 19th November 2021, they were neither impleaded as parties nor afforded an opportunity of being heard, thereby violating the principles of natural justice. They also emphasize that, they have no alternative accommodation in the city and that an eviction at this stage, without fault on their part, would lead to irreparable hardship and undue suffering.

4. This Court, vide order dated 3rd January 2025, permitted the applicants and other affected persons to approach the Competent Authority under Section 53 of the Maharashtra Regional Town Planning Act, 1966, for seeking regularization of the subject construction. Furthermore, the Court directed the Municipal Corporation to adjudicate upon such applications for regularization in accordance with law. However, this Court also placed on record its preliminary observation that, in a matter which has already been finally disposed of, the applicants must demonstrate under what legal provision this Court, after having become functus officio, can entertain the present interim application.

5. In pursuance of the directions contained in the order dated 3rd January 2025, the learned Advocate for respondent No.4 - Municipal Corporation has placed on record a communication issued by the Corporation. The said communication states that, the

proposal for regularization submitted by the applicants under Section 53(3) of the Maharashtra Regional Town Planning Act, 1966, has been duly considered and stands rejected in terms of Section 45(3) of the said Act. The rejection is premise on the ground that, the subject construction does not conform to the prescribed planning norms and regulatory requirements.

6. The learned Advocate for the applicants submitted that, the applicants were not afforded an opportunity to be heard prior to the pronouncement of the Judgment and Order dated 19th November 2024. He further averred that, in the absence of continued interim protection, the applicants would suffer irreparable prejudice through the execution of demolition or eviction proceedings. It was additionally submitted that the applicants acquired the subject property through duly sanctioned bank loans and any interruption of the protection previously granted by this Court would expose them to substantial financial loss and hardship.

7. We have duly considered the submissions canvassed on behalf of the applicants. A bare/clear reading of clause (6) of the Judgment and Order dated 19th November 2024 reveals that, the respondent Municipal Corporation was expressly directed to effect the demolition of illegal structures, as specified in paragraph 5 of the Affidavit dated 20th August 2024 and to do so strictly in accordance with the relevant statutory provisions. The phrase “in accordance with law” unequivocally mandates adherence to the procedural framework prescribed under the Maharashtra Municipal Corporation Act, 1949. Consequently, the subsequent

issuance of a notice by the respondent Municipal Corporation constitutes an independent cause of action accruing after the delivery of the judgment by this Court.

8. The Supreme Court, in *State of Uttar Pradesh v. Brahma Datt Sharma & Anr.*, AIR 1987 SC 943, has held that once a High Court has disposed of a petition and any interim application raising grievances in relation to causes of action accruing post-disposal is not maintainable. In light of this settled jurisprudence, we are of the opinion that the interim application presently before this Court, which seeks redress for actions that have accrued subsequent to the finality of the Judgment, is not maintainable.

9. Notwithstanding the foregoing, the Court acknowledges the significant grievance raised by the applicants. It is pertinent to note that on 3rd January 2025, when this Court granted interim protection against coercive demolition measures, the applicants had not submitted an application for regularisation of their construction. In contrast, the present record reflects that the Municipal Corporation has now placed on record a decision rejecting the applicants' subsequent application for regularisation. Accordingly, once the application for regularisation has been rejected, the applicants are precluded from claiming any relief with respect to either the eviction from the unauthorized structure or the demolition proceedings duly initiated by the Municipal Corporation in accordance with law.

10. At this juncture, it is necessary to consider the observations articulated by the Supreme Court in the case of *Rajendra Kumar*

*Barjatya v. U.P. Avas Evam Vikas Parishad*, 2024 SCC OnLine SC 3767. In paragraph 20 of the said judgment, the Supreme Court observed as under:

*“20. In the ultimate analysis, we are of the opinion that construction(s) put up in violation of or deviation from the building plan approved by the local authority and the constructions which are audaciously put up without any building planning approval, cannot be encouraged. Each and every construction must be made scrupulously following and strictly adhering to the Rules. In the event of any violation being brought to the notice of the Courts, it has to be curtailed with iron hands and any lenience afforded to them would amount to showing misplaced sympathy. Delay in directing rectification of illegalities, administrative failure, regulatory inefficiency, cost of construction and investment, negligence and laxity on the part of the authorities concerned in performing their obligation(s) under the Act, cannot be used as a shield to defend action taken against the illegal/unauthorized constructions. That apart, the State Governments often seek to enrich themselves through the process of regularisation by condoning/ratifying the violations and illegalities. The State is unmindful that this gain is insignificant compared to the long-term damage it causes to the orderly urban development and irreversible adverse impact on the environment. Hence, regularization schemes must be brought out only in exceptional circumstances and as a onetime measure for residential houses after a detailed survey and considering the nature of land, fertility, usage, impact on the environment, availability and distribution of resources, proximity to water bodies/rivers and larger public interest. Unauthorised constructions, apart from posing a threat to the life of the occupants and the citizens living nearby, also have an effect on resources like electricity, ground water and access to*

*roads, which are primarily designed to be made available in orderly development and authorized activities. Master plan or the zonal development cannot be just individual centric but also must be devised keeping in mind the larger interest of the public and the environment. Unless the administration is streamlined and the persons entrusted with the implementation of the act are held accountable for their failure in performing statutory obligations, violations of this nature would go unchecked and become more rampant. If the officials are let scot-free, they will be emboldened and would continue to turn a nelson's eye to all the illegalities resulting in derailment of all planned projects and pollution, disorderly traffic, security risks, etc.”*

**11.** In view of the categorical observations made by the Supreme Court in *Rajendra Kumar Barjatya* (supra), and after a thorough consideration of the catena of decisions on the subject of illegal constructions, it is abundantly clear that the applicants have failed to establish a prima facie case for any relief. In addition, the unequivocal rejection of the Applicants’ application for regularisation by the competent authority further precludes any entitlement to relief under the established statutory framework. The cumulative effect of these judicial pronouncements and the inherent principles of due process mandate that the applicants, having not complied with the requisite legal and administrative procedures, cannot be favoured with the sought relief.

**12.** Accordingly, in light of the foregoing reasons and in adherence to the established legal principles, the interim application is hereby rejected.

**(AMIT BORKAR, J.)**

**(A.S. GADKARI, J.)**