



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

PUBLIC INTEREST LITIGATION NO. 19 OF 2013

Hardas Hazarimal Tharwani ... Petitioner

Versus

State of Maharashtra and ors. Respondents

**WITH
INTERIM APPLICATION NO. 1635 OF 2025
IN
PUBLIC INTEREST LITIGATION NO. 19 OF 2013**

Jeevan C. Idnani ... Applicant

IN THE MATTER BETWEEN

Hardas Hazarimal Tharwani ... Petitioner

Versus

State of Maharashtra and ors. Respondents

Ms Minal J. Chandnani, for the Petitioner.

Ms Neha S. Bhide, Government Pleader a/w Mr O. A. Chandurkar,
Additional Government Pleader, Ms G. R. Raghuwanshi, AGP, for
Respondent No.1.

Mr S. M. Kamble, for Respondent No.2.

Mr Anish Khandekar, for Respondent Nos.3 to 10.

**CORAM : ALOK ARADHE, CJ &
M. S. KARNIK, J.**

DATE : 2nd APRIL, 2025

ORDER (PER M. S. KARNIK, J.) :

1. The PIL Petitioner claims to be a social worker involved in various social activities for the local citizens of Ulhasnagar. He claims to have filed several PILs/Writ Petitions for the cause of general public. The PIL Petitioner is a businessman engaged in the business of construction and he is a regular taxpayer. By this PIL Petition the challenge is to the construction permission dated 9th July 1999 granted by Respondent No.2 in respect of Sapna Talkies building. The Petitioner seeks demolition of Sapna Talkies building as no modification in the development plan under Section 37 of the Maharashtra Regional and Town Planning Act ("MRTP Act" for short) is carried out and sanctioned. Further relief is sought that a High Level Committee be set up to enquire into the corrupt practices of Respondent No.2-Ulhasnagar Municipal Corporation and its officers for having granted construction permission in violation of all statutory provisions. The direction is also sought that the Respondent No.2 take necessary action in pursuant to the complaint of the Petitioner dated 24th November 2012.

2. An affidavit-in-reply dated 25th September 2013 was filed on behalf of Respondent No.2-Ulhasnagar Municipal Corporation duly affirmed by Mr Devidas Gangadhar Pawar, Deputy Commissioner (Encroachment). In the affidavit it was pointed out that the Petitioner had

filed Writ Petition No.8350 of 2012 before this Court. By an order dated 28th September 2012 this Court directed the Corporation to consider the Petitioner's representation in regard to the alleged illegal constructions in accordance with law and take a decision thereon within a period of three months. Pursuant to the order dated 28th September 2012 passed by this Court, the grievances of the Petitioner were heard.

3. Respondent No.3 made an application under the Regularisation Act for regularisation of their properties and the matter was then pending before the competent authorities for consideration in terms of the Regularisation of Unauthorised Developments in the City of Ulhasnagar Act, 2006 ("Regularisation Act" for short). In the affidavit, it was stated that further action can be taken only after conclusion of the said proceedings.

4. Pursuant to the contempt proceedings, the Commissioner passed an order dated 23rd August 2013 recording that the building permission was granted by the Corporation on 9th August 1998 for an area of 1189.12 sq.mtrs. and Completion Certificate was also granted on 3rd July 2001. The excess violation was found to the extent of 537.64 sq.mtrs. and for the said violation the penalty of Rs.7,38,037/- was paid as regularisation fees. It was further stated in the affidavit that since the application for regularisation was pending before the Competent

Authorities further action could be taken only after the conclusion of the said proceedings. The Contempt Petition was accordingly disposed of.

5. In the intervening period during the pendency of this PIL Petition subsequent developments were placed on record by the Petitioner. The Assistant Director of Town Planning, Ulhasnagar Municipal Corporation filed an affidavit on 17th April 2024. In the affidavit it was stated that the application filed by Respondent No.3 for regularisation in the year 2013 was withdrawn on 5th September 2013. The Government had issued a notification on 9th September 2019 replacing the Collector and appointing the Commissioner of Ulhasnagar Municipal Corporation as the Designated Authority under sub-section (5) of Section 3 of the Regularisation Act. The Government issued directives on 9th September 2019 directing that for the purpose of carrying out survey of the properties in Ulhasnagar City, a request be made to the office of land records. The letter dated 9th September 2019 further directed that compounding fees be charged as per the ready reckoner value for the year in which the structure is regularised. The structures which do not have structural stability certificate or fire security certificate cannot be regularised. The structures utilising FSI above 4 also cannot be regularised.

6. As the Government was satisfied that circumstances exists which render it necessary to take immediate action to make special development controlled regulations, has issued a notice on 13th September 2019, under Section 159(3) of the MRTP Act, inviting objections and suggestions to the said special development controlled regulations. The said regulations would be finalised by following due process of law. An online portal was created and thereafter the public notice dated 22nd November 2019 was issued informing the public the said facts. On 5th December 2019 a public notice was issued calling upon the public at large to submit their online proposals for regularisation. Respondent No.3 submitted their online proposal for regularisation on 9th February 2020 and 15th February 2020. Due to Covid-19 pandemic the applications could not be processed. By a Government Resolution dated 17th February 2023 fees were fixed for regularisation of unauthorised construction. The application made by Respondent No.3 for regularisation is being processed and it is stated in the affidavit that appropriate decision will be taken on the regularisation application of Respondent No.3.

7. By an order dated 29th April 2024 this Court directed the competent authority to take final decision on the application seeking regularisation of certain construction within a period of four weeks from

the date of the order. The order dated 24th May 2024 passed on the application seeking regularisation was placed on record stating that the application is rejected.

8. Thereafter, affidavit dated 10th September 2024 came to be filed by the Assistant Director of Town Planning of Ulhasnagar Municipal Corporation. In the reply it was stated that notice has been issued under the provision of MRTP Act calling upon the violators to remove the illegal construction within a period of 30 days. If the violators did not remove the illegal construction then the Corporation would remove the illegal construction and the cost incurred towards the removal would be recovered from them. An Appeal came to be filed by Respondent No.3 under Section 6 of the Regularisation Act which is pending. The Corporation had not proceeded to take action against the illegal construction because of the pendency of this Appeal. By an order dated 17th October 2024 the Appeal filed by Respondent No.3 has been allowed. The impugned order rejecting the application for regularisation was set aside. Respondent No.3 was directed to submit a proposal in prescribed format. The competent authority is directed to decide the application for regularisation as per rule within a period of one month.

9. We do not propose to keep the PIL Petition pending any further in view of the subsequent developments. It is open for the Petitioner to take

recourse to remedies against the order dated 17th October 2024 passed by the Appellate Authority and/or challenge the order passed by the Competent Authority in the event any orders adverse to the interest of the Petitioner are passed. If the proposal for regularisation is not already decided in terms of the order dated 17th October 2024 passed by the Appellate Authority, we direct the same be decided positively within a period of two weeks from today. In case the proposal for regularisation is decided, it is open for any of the parties to take recourse to the remedy available in accordance with law against such order.

10. Depending upon the outcome of the proposal for regularisation and subject to any legal impediment, the Corporation being the statutory authority shall obviously initiate action in accordance with law in the event the proposal for regularisation is rejected.

11. With the aforesaid directions the PIL Petition stands disposed of.

12. Interim Application No.1635 of 2025 does not survive and is disposed of.

(M. S. KARNIK, J.)

(CHIEF JUSTICE)