

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 6770 OF 2025
WITH
INTERIM APPLICATION NO. 6769 OF 2025
IN
WRIT PETITION NO. 2604 OF 2025

Vijendrakumar Shyamlal Sharma
And Ors.

...Petitioners

Versus

Thane Municipal Corporation
Through its Commissioner And Anr.

...Respondents

Mr. Suresh Sabrad a/w Ms. Neha Parte, Ms. Eshwaree Kudalkar & Mr. Amey Sawant, Advocates for the Petitioners.
Mr. Mandar Limaye, Advocate for Respondent No. 1-Corporation.
Ms. Neeta Karnik, Sr. Advocate i/b Mr. Piyush Todkar, Advocate for Respondent No. 2.

CORAM : RAVINDRA V. GHUGE &
ASHWIN D. BHOBE, JJ.

DATE : 15th SEPTEMBER, 2025.

P.C. :

INTERIM APPLICATION NO. 6769 OF 2025

1. Heard the learned Senior Advocate Ms. Neeta Karnik for Respondent No. 2 along with the learned Advocates for the Applicants/original Petitioners and Respondent No. 1, Municipal Corporation. We have perused the prayers in the Interim Application, which are primarily for seeking amendment in terms of the schedule appended to the Interim Application.

2. The learned Senior Advocate representing Respondent

No. 2 submits that granting of amendment would be a futile exercise. The acts on the part of the Municipal Corporation, on which the Applicants sought an embargo, have already been performed by the Municipal Corporation. The amendment is to assail the grant of permission, regularization and the Occupancy Certificate (OC).

3. The proposed amendment and the prayers sought to be added in the Interim Application, indicate that they are formulated on the basis of events that have occurred subsequent to the filing of Interim Application dated 22nd March, 2025. The OC granted is placed on record by Respondent No. 2 along with the Affidavit-in-Reply for opposing the amendment. The Applicants naturally prayed for leave to add one more prayer to the proposed amendment, for seeking the quashing of the OC, on the ground that it has been recently granted on 12th August, 2025.

4. Though it has been vehemently canvassed by the opponents that the Interim Application seeking leave to amend is rendered infructuous, we feel the otherwise. The Interim Application is filed on 22nd March, 2025 anticipating some acts on the part of the Municipal Corporation. During the pendency of the Application, those apprehended acts have turned into a reality. Leave to amend is sought on the basis of events that have occurred after the lodging of the Writ Petition on 24th January, 2025.

5. As such, the subsequent events are sought to be brought on record, by amending the Writ Petition. Unless a completely new or different cause of action, unconnected with the

pending Petition, is brought before the Court, an amendment can be permitted. So also, in the facts and circumstance of a case, amendment can be permitted in order to enable the litigant to put forward the best material that he has and surely on account of events that have occurred subsequent to the filing of the Writ Petition, which bring into reality the apprehension voiced by the Petitioners.

6. In the light of above, **the Interim Application is allowed.** Leave to amend is granted. The oral request to add a prayer for questioning the OC granted to the builder after filing of the Interim Application for amendment, is permitted in order to avoid further consumption of time in litigation.

7. The learned senior Advocate submits that Respondent No. 2 has received permission to induct entities for running the commercial activities on the 5th floor and they have already commenced their commercial activities. These parties will have to be arrayed as 'Respondents' in the Writ Petition. The learned Advocate for the Petitioners submits that addition of the said parties would be carried out within a period of 2 weeks from today.

8. In view of the above, we permit the amendment to be carried out in the light of the above within a period of 3 weeks from today. Post amendment, list this Writ Petition for issuance of notice to the added Respondents, after 4 weeks from today. After the amendment, the amended memo of the Writ Petition be filed in the Court and copies be extended to the Respondents in advance.

9. In the meanwhile, those Respondents who have already appeared before us, are at liberty to file their additional Affidavits-in-Reply. Due assistance would be extended by the said Respondents to the learned Advocate for the Petitioners, to ensure that the pagination in the Writ Petition is in continuation.

[ASHWIN D. BHOBE, J.]

[RAVINDRA V. GHUGE, J.]

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KOTAWADEKAR

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