



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8996 OF 2023

Mrs. Annie Joseph Miranda, through POA
Mr. Archie Julius Silveira ... Petitioner

Vs.

Asst. Commissioner of Vasai Virar City Municipal
Corporation & Ors. ... Respondents

WITH
INTERIM APPLICATION NO. 11950 OF 2025
IN
WRIT PETITION NO. 8996 OF 2023

M/s. Legal Developers, through Partners ... Applicant

In the matter between

Mrs. Annie Joseph Miranda (Decd.), through
legal heirs Mr. Archie Julius Silveira ... Petitioner

Vs.

Asst. Commissioner of Vasai Virar City Municipal
Corporation & Ors. ... Respondents

WITH
INTERIM APPLICATION NO. 11949 OF 2025
IN
WRIT PETITION NO. 8996 OF 2023

Blaise Joseph Miranda ... Applicant

In the matter between

Mrs. Annie Joseph Miranda, (Decd.), through
legal heirs Mr. Archie Julius Silveira ... Petitioner

Vs.

Asst. Commissioner of Vasai Virar City Municipal
Corporation & Ors. ... Respondents

Ms. Ankita Singhania, Ms. Shweta R. Rathod i/b. Elixir Legal Services for the
petitioner.

Ms. Swati Sagvekar for respondent no. 1 and 2.

Mr. Girish Godbole a/w. Mr. Rakesh Sawant, Shamiyana H. & Mr. Rahul Patil i/b.
Arhat Legal for respondent no. 3.

Mr. Amar Parsekar a/w. Mr. Saurav Katkar for respondent no. 4.

CORAM: G. S. KULKARNI &
ARIF S. DOCTOR, JJ.
DATED: 23 SEPTEMBER, 2025

P.C.

1. We have heard learned counsel for the parties on this petition filed under Article 226 of the Constitution of India. The reliefs as prayed for in this petition are required to be noted, which reads thus:

“a) Rule be issued.

b) This Hon’ble Court be pleased to call record and proceedings from respondent nos. 1 and 2 herein and after going through the same, be pleased to issue writ of mandamus or any other Order or appropriate writ and direct respondent nos. 1 and 2 herein to cancel the development permission dated 26/02/2021 and revised development permission dated 24//12/2021 and commencement certificate dated 24/12/2021 issued by respondent nos. 1 and 2 herein in favour of respondent no. 3, in respect of the property being Survey No. 13 (Old Survey No. 15), Hissa No.4 (Pat), 5/1, 6/1, 10/1 & 11. New Survey No.1 (Old Survey No. 14), Hissa No. 3 (Part) & new Survey No. 3 (Old Survey No. 60), Hissa no. 3, lying being and situated at Village Kiravali, Taluka Vasai, District Palghar along with the structure standing thereon being House no. 4 and further direct the respondent nos. 1 and 2 herein to initiate criminal proceedings against respondent no. 3 herein as per Section 191, 193, 199 and 200 of IPC 1860 and any other appropriate sections under appropriate Acts.”

2. On 11 July, 2025, following order was passed on the present proceedings:

1. Prima facie we have grave doubt in regard to the sale deed on the basis of which respondent No.3 claims to be the owner of the petitioner’s land bearing Survey No.13 (Old Survey No.15), Hissa No.4(Part), 5/1, 6/1, 10/1 & 11, New Survey No.1 (Old Survey No.14), Hissa No.3 (Part) & New Survey No.3 (Old Survey No.60), Hissa No.3 situated at Village Kiravali, Taluka Vasai, District Palghar as described in the petition.

2. We find from the sale deed that an amount of Rs.1 crore is alleged to have been paid by cheques to the petitioner's deceased husband. The second tranche of payment of Rs.2 cores was to be received by him by post dated cheques, the details of which are set out. However, there is nothing on record whether the full amount was received and whether such post-dated cheques, if at all paid, were encashed. We accordingly direct respondent No.3 to place on record an affidavit that all such payments were received by the petitioner’s deceased husband with adequate proof thereof namely the banker’s certificate that total

amount of Rs. 3 crore including the post dated cheques of Rs.2 crores having received by such payee. Such certificate be obtained from Bassein Catholic Co-Operative Bank Limited. We also permit the petitioners to amend the petition and implead Bassein Catholic Co-Operative Bank Limited as a party respondent so as to verify such position.

3. Let such affidavit be filed on or before the adjourned date of hearing and the same be also served on the respective parties before we shall hear the present proceedings.

4. Till the adjourned date of hearing, status quo in regard to the property in question as of date, shall be maintained. We direct the Municipal Corporation that till further orders are passed by this Court, no development permission be granted on the property in question and if any development permission is already granted, it shall not be acted upon in any manner whatsoever.

5. Stand over to 24 July 2025.

3. The protection as granted by the aforesaid order has continued to operate.

Thereafter the proceedings were listed before this Court on 4 August, 2025 when the following order was passed:

“1. To enable the petitioner to place on record a rejoinder affidavit to the reply affidavit filed on behalf of respondent No.3, stand over to 18 August 2025. Let reply affidavit also be placed on record by the Municipal Corporation. There shall not be any further extension. Let such affidavits be filed within one week from today and the same be served on all the parties.

2. Stand over to 18 August 2025 (HOB).”

4. On 18 August, 2025, when the proceedings were listed before the Court, learned counsel for the Municipal Corporation stated that the reply affidavit of the Municipal Corporation was served on the advocate for the petitioner and accordingly on such affidavit, as the learned counsel for the petitioner was seeking time to take instructions, the proceedings were adjourned to 2 September, 2025. Ad-interim order which was passed earlier was continued.

5. On 16 July, 2025, Interim Application No. 11950 of 2025 was filed on behalf of respondent no. 3 for recall of the order dated 11 July, 2025 passed in the Writ Petition.

6. On 18 September, 2025 after the change of assignment, w.e.f. 3 September, 2025, the proceedings were listed before a co-ordinate Bench of this Court, when after hearing the parties on the Interim Application filed by respondent no. 3, the Division Bench passed the following order:

1. This matter is at Serial No.918 on today's supplementary board. When the matter was called out, we were informed that the learned Advocate Ms. Nidhi Dotiya is not available on the ground that she has a medical urgency. When we called upon Ms. Shweta Rathod to address the Court, we were informed that she is present in the Court. These two Advocates had addressed this Court (Coram : G.S. Kulkarni and Arif S. Doctor, JJ.) when the matter was listed before the Court on 11th July, 2025.

2. On 11th July, 2025 the said learned Court passed an order recording in paragraph no.2, that an amount of Rs.1 Crore is alleged to have been paid by cheques to the Petitioner's husband. The second tranche of payment of Rs.2 Crores was to be received by him by post-dated cheques. However, this Court did not find anything on record to indicate as to whether the full amount was received and whether such post-dated cheques were encashed.

3. It is in this backdrop that the said learned Court passed an order directing status quo to be maintained with regard to the property in question. The Municipal Corporation was directed that no development permission be granted on the property in question, and if any development permission is already granted, it shall not be acted upon in any manner whatsoever.

4. On 24th July, 2025, an Interim Application was filed. The same learned Court was addressed by Ms. Nidhi Dotiya and Ms. Shweta Rathod. On 4th August, 2025, the Petitioner was granted permission to file a rejoinder affidavit with the observation that there shall be no further extension of time. On 18th August, 2025, Ms. Shweta Rathod addressed the Court and took time to take instructions as she had received the affidavit on that date. On 2nd September, 2025, a last chance was granted by the same learned Court with the observation that on the adjourned date, neither the matter would be kept back, nor

would it be adjourned, and if the Petitioner does not proceed in the matter, there will be no alternative but to dismiss the Petition for want of prosecution.

5. Today, once again, an adjournment is sought. We could have dismissed this Petition today. However, Ms. Sneha Agrawal, the learned Advocate, who had not appeared before this Court in this proceeding, any time before, submits that she would address the Court. She conceded that the amount of Rs.2 Crores has already been received by both the Petitioner and her husband through cheques and the amounts were encashed in 2011. The record reveals that the Petitioners have received Rs.3.39 Crores after the Conveyance Deed dated 4th August, 2011 was signed and Rs.1 Crore was paid instantly. The remaining amount was received by the deceased Petitioner (now represented by the legal heirs) as in 2011.

6. One Special Civil Suit No.150 of 2016 seeking cancellation of the Conveyance Deed has already been filed. Another Civil Suit bearing No.126 of 2012 has been filed by the deceased Petitioner and her husband (since deceased), together praying for recovery of Rs.3.55 Crores on the contention that the said amount was given as a hand loan to the Defendants. That Suit is still pending.

7. In the light of the above, we are of the view that the above aspects were not brought to the notice of the learned Bench when the ad-interim order dated 11th July, 2025 was passed on appreciating the contentions of the Petitioners. Shri Godbole, the learned Senior Advocate submits that incorrect statements were made and the order dated 11th July, 2025 needs to be recalled. The said order was passed, when the Petitioners did not place page 27/28 of the Conveyance Deed before the Court in the Petition, which is now brought on record by the Respondents.

8. We, therefore, find that it would be appropriate to place this matter before the same Court which passed the order dated 11th July, 2025.

9. As such, since it is our view that the matter should be placed before the same Bench which passed the order dated 11th July, 2025, and considering the strong objection of the Respondents to the continuation of the ad-interim relief, we are continuing the said relief for two days with liberty to the Petitioners to move an appropriate praecipe before the Hon'ble The Chief Justice of this Court, for placing the matter before the same Bench which had passed the order on 11th July, 2025."

7. On such backdrop, the proceedings are listed before us today.

8. We have heard learned counsel for the parties. Our attention is drawn to the

record and more particularly that the entire controversy in regard to the subject property is subjudice before the Court of learned Civil Judge Senior Division at Vasai in the proceedings of Special Civil Suit No. 150 of 2016, which is a Suit for declaration, injunction and cancellation of Deed of Conveyance dated 4 August, 2011, which was executed by the original petitioner Annie Joseph Miranda and her husband Joseph Sebastian Miranda. There is also a Civil Suit No. 126 of 2012 filed by the original petitioner's-husband Joseph Sebastian Miranda against respondent no. 3 for a money claim of Rs.3,55,05,000/-. It appears that all such issues which are *inter se* disputes between the petitioner and respondent no. 3, which are at large before the Civil Court in independent proceedings.

9. It is respondent no. 3's case that the conveyance was acted upon and further development was taken in respect of the plot of land in question, hence the orders dated 11 July, 2025 passed by this Court are prejudicially affecting respondent no. 3 and the persons who have purchased the bungalows purchased by the third party.

10. Having heard learned counsel for the parties and having perused the record, we are of the opinion that there is a serious dispute between the petitioner and respondent no. 3 in respect of the right, title and interest of the land in question and as the petitioner has questioned the rights of respondent no. 3 to undertake any development including on the ground of fraud and misrepresentation. All these issues are subject matter of Civil Suit and which in fact challenges the conveyance dated 4 August 2011 in respect of respondent no. 3 is claiming right.

11. In these circumstances, we are of the opinion that it is appropriate that the

Vasai Virar Municipal Corporation, who has granted permission and such permission is being questioned, be impleaded as a party to the said Civil Suit. Learned counsel for the Municipal Corporation would not be averse to such course of action to be adopted.

12. In this view of the matter, we are inclined to dispose of this petition keeping open all contentions in terms of the following order:

ORDER

(i) The petitioner shall move an appropriate application in Special Civil Suit no. 150 of 2016 to implead the Vasai Virar Municipal Corporation as a defendant to the said Civil Suit. Let appropriate action in that regard be taken within one week from today.

(ii) Also within such period of time, the petitioner is permitted to move an appropriate application seeking appropriate interim reliefs including the reliefs as prayed for in this petition against respondent no. 3, i.e., defendant in the suit, and the added defendant-Vasai Virar Municipal Corporation. All contentions of the parties in that regard are expressly kept open.

(iii) To enable the petitioner to move such application and obtain appropriate orders on the rival contentions as may be urged before the Civil Court, we direct that ad-interim orders passed by this Court on 11 July, 2025 be continued to operate for a very limited period of four weeks from today. Such continuation of the order is no

reflection on the merits of the rival contentions. The Civil Court is directed to hear the parties on their rival contentions and on merits and without being influenced by the order of this Court of continuation of the protection, pass appropriate order on the application which the petitioner may file. All contentions of the parties on such Application are also expressly kept open.

13. Writ Petition stands disposed of in the aforesaid terms. No costs.
14. Interim Application shall also not require further adjudication in view of the aforesaid order. They accordingly stand disposed of.

(ARIF S. DOCTOR, J.)

(G. S. KULKARNI , J.)