

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2424 OF 2025

Nemi Krishna Co-op. Hsg. Society. ...Petitioner
Vs
The Municipal Corporation for Gr. Mumbai & Ors....Respondents

Mr. Aadil Parsurampuria i/b. Mehul Rathod, for Petitioner.
Ms. Pushpa Yadav i/b. Ms. Komal Punjabi, for BMC.

CORAM: G. S. KULKARNI &
MANJUSHA DESHPANDE, JJ.

DATE: 4 SEPTEMBER 2025.

P.C.

1. Not on board taken on board on an urgent application as moved on behalf of the petitioner.
2. Learned Counsel for the petitioner has brought to our notice an order dated 20 January 2025 passed by the co-ordinate Bench of this Court. The said order is required to be noted, which reads thus:

“1. Learned Advocate for Respondent-MCGM, on instructions submitted that, the demolition of 23 structures is scheduled on 29th January 2025. That, the Competent Authority of Respondent No.1-Corporation has also sought for police protection for the same. That, as far as balance four structures are concerned, the said person have filed suits before the City Civil Court at Mumbai without disclosing the fact that, the Judgment and Order dated 5th August 2024 passed in First Appeal No.553 of 2018 has not been interfered with by the Hon’ble Supreme Court in Special Leave to Appeal (C) No(s). 22201/2024 by its order dated 30th September 2024. That, the said fact will be brought to the Notice of learned Judge of the City Civil Court, Mumbai by filing an Application in the said four suits with the request to prepone the hearing of the said suits.

1.1) In view thereof and at the request of learned Counsel for Respondent-Corporation, stand over to 5th February 2025.”

3. We are informed that in pursuance of the aforesaid order, 19 structures which are illegal structures in the premises of the petitioner's society, were demolished. In fact, what is pertinent is that the land on which the structures are being put up, are part of the road leading to Kandivali (West) Railway Station. We are also informed that there are suits which are filed by eight persons seeking protection in regard to their structures out of total 27 structures. Barring such structures of eight persons, all the other structures are removed. However, it is contended that as they are being reconstructed or again such illegality being perpetuated, the petitioner is constrained to move the Court as such illegal activities are being undertaken and in contravention of the orders passed by this Court.

4. In the aforesaid circumstances, we order that the Municipal Corporation to take appropriate action to remove such illegal construction and steps be taken that such structures are not again put up. Also further appropriate steps need to be taken to safeguard the said land and prevent encroachment and illegal structures being installed. In the event, despite repeated orders of the Court, such illegal activities take place, and if it being tolerated by the concerned Ward Officer, we shall consider it to be a breach of the orders passed by this Court, at the hands of the Ward Officer and the other concerned officials/staff of the Municipal Corporation. We shall accordingly pass further appropriate orders including on the breach of the orders passed by this Court. The reason being that, first and foremost, no illegal structures can be permitted and more particularly, when there is already an order, there cannot be any resurrection of such illegality

on the pavements.

5. Barring the structures which stand protected by any orders passed by the Court's, the Corporation shall take appropriate action against the illegal and unauthorized structures, and place an affidavit on record of this Court on or before the adjourned date of hearing.

6. Stand over for **18 September 2025**.

7. Parties to act on the authenticated copy of this order.

(MANJUSHA DESHPANDE, J.)

(G. S. KULKARNI, J.)