

Prajakta Vartak

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2470 OF 2024
WITH
INTERIM APPLICATION (L.) NO. 24220 OF 2025
WITH
INTERIM APPLICATION (L.) NO. 15828 OF 2025

Patel Castle Co-op. Housing Society Ltd.

...Petitioner

Vs.

Municipal Corporation for Greater Mumbai & Ors.

...Respondents

Mr. Shanay Shah with Mr. Deepak Singh i/b. S. L. Partners for Petitioner.
Mr. Drupad Patil with Ms. Rupali Adhate i/b. Ms. Komal Punjabi and Ms. Meena
Dhuri for Respondent-BMC & for Applicant in IAL No. 24220/25.
Ms. Fatima Lakadawala, AGP for State.

CORAM: G. S. KULKARNI &
ARIF S. DOCTOR, JJ.
DATE: 08 AUGUST 2025.

P.C.

1. Interim Application (L.) No. 24220 of 2025 has been filed by respondent no.1-Municipal Corporation of Greater Mumbai praying for extension of three months to complete the action of removal of structures, situated within the alignment of 13.40 mtr. D.P. Road from Behram Baug Road to Sultanabad Federation at Kranti Nagar, K/West Ward, Mumbai. The said prayer is made on the backdrop of the order dated 02 May 2025 passed by a co-ordinate Bench of this Court, which reads thus:-

“1) In furtherance of Order dated 8th April, 2025, Dr. Vipin Sharma, Additional Commissioner of Municipal Corporation, Western Suburb, Mumbai has filed a detailed Affidavit dated 29th April, 2025. We have perused the said Affidavit. The statements made in the said Affidavit are accepted.

2) For reporting the compliance of process adopted by the Corporation, list the Petition on Board in 1st August, 2025, under the caption “for reporting compliance”.

2. Mr. Shanay Shah, learned counsel for the petitioner certainly would not oppose the prayer, however, his contention is that the road by this time should have been cleared as it is affecting the Commencement Certificate to be issued to the petitioner’s development which is pending since 2016. In our opinion, the Municipal Corporation cannot have it both ways that merely because certain works are required to be undertaken by the Municipal Corporation, they would withhold the Commencement Certificate (CC). This is the only reason that as the access road being not available in the manner as the law would require, the CC is being withheld. It is fully the obligation of the Municipal Corporation as set out in the affidavit in reply dated 29 April 2025 filed by Dr. Vipin Sharma, Additional Municipal Commissioner (Western Suburbs).

3. In this view of the matter, we observe that although such extension as prayed for can be granted, however, the Municipal Corporation shall not withhold the CC to be issued to the petitioner’s construction. Accordingly, as a matter of last chance, the prayer for extension as made in terms of prayer clause (b) is granted and the application to that extent is allowed. However, we direct that within a period of 15 days from the day a copy of this order is available, the proposal of the petitioner for CC shall be processed and the same be issued, in the event all other compliances are made by the petitioner. In other words, CC ought not to be withheld only on the ground that the work of alignment of 13.40 mtr. D.P. Road, which is the obligation of the Municipal Corporation, is being delayed

and for which we have granted extension of time. All contentions of the parties in this regard are expressly kept open.

4. Considering the aforesaid orders, in our opinion, further adjudication of the petition is not called for.

5. The petition accordingly stands disposed of in the aforesaid terms keeping open all contentions of the parties on the redevelopment.

6. Interim Application (L.) No. 24220 of 2025 also stands disposed of in terms of the aforesaid order.

7. Interim Application (L.) No.15828 of 2025 for intervention would not survive. It is accordingly disposed of.

(ARIF S. DOCTOR, J.)

(G. S. KULKARNI, J.)