



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION NO. 2492 OF 2024
WITH
INTERIM APPLICATION NO. 1158 OF 2025
IN
WRIT PETITION NO. 2620 OF 2024

Basilica Of Our Lady Of The Mount
Versus

...Applicant/Petitioners

The Brihanmumbai Municipal Corporation
Through Its Municipal Commissioner & Ors.

...Respondents

Mr. Floyd Francis Mariano Gracias a/w Vedika Doiphode for Applicant/Petitioner.
Mr. Kunal Bhanage i/b Mr. Akshay Pawar for Respondent No.3.
Ms. Pournima Kantharia a/w Komal Punjabi for BMC.
Mr. Akash Bhalerao, Jr. Engineer H/W Ward BMC, Present.

CORAM: G. S. KULKARNI &
ARIF S. DOCTOR, JJ.

DATE: 09 JULY 2025

P.C.

1. This petition under Article 226 of the Constitution of India is filed praying for the following substantive relief:

“c. Issue a Writ of Mandamus or such other Writ as this Hon’ble Court may deem fit ordering and directing respondent Nos.1 & 2 to take the necessary action against the encroachment on the said property of the petitioner and demolishing the said illegal structures completely as per the map provided, except for the legal portion of the hut, but including and not limited to the illegal extensions to the hut/dwelling tenement.”

2. We find that the Municipal Corporation had issued demolition order dated 4 December 2015 and 25 May 2019 which is annexed at Exhibit - F & I. In such context, the proceedings were listed before a coordinate Bench of this Court on 2 July 2024, when the following order came to be passed:

- “1. Heard learned Counsel for the parties.
2. The main grievance in this Petition concerns in implementation of the BMC’s demolition orders dated 4th December 2015 and 25th May 2019 (Exhibit “F” and “I”). The Petitioner contends that both these demolition orders are not fully complied with.
3. Learned Counsel for the 3rd Respondent, who had put up this constructions, contends that both the orders are fully complied with.
4. Accordingly, we direct the Corporation to depute its officials to inspect the site on 6th July 2024 at 11.00 am. The representatives of the Petitioner and the 3rd Respondent may remain present at the site if they chose to. However, under no circumstances, any of this party should obstruct the inspection.
5. The BMC must file a report in this Court along with photographs by 9th July 2024 about whether the two demolition orders are fully complied with or not.
6. List the matter on 11th July 2024.”

3. Thereafter when the proceedings were listed before us on 7 July 2025, in order to ascertain the correct position, we had passed the following order:

1. “Not on board taken on board on a praecipe as moved on behalf of the petitioner.
2. List the proceedings on **9 July 2024**.
3. In the meantime the Competent Officer of the Municipal Corporation shall verify whether the noticed structure which is stated to have been removed, whether in any manner has been restored or any fresh construction has been undertaken by respondent No.3. Let the correct position be placed on record.
4. The Officer of the Corporation shall visit the site on 8th July 2025 at 3.30 p.m. A representative of the petitioner as also the representative of respondent No.3 shall remain present on the site.
5. Learned Counsel for the Corporation shall communicate this order to the Designated Officer.
6. Parties to act on the authenticated copy of the order.”

4. It is on the aforesaid backdrop the proceedings are before us. Learned counsel for the petitioner has fairly stated that the unauthorized construction has already been removed, photographs in that regard are placed on record. Also Ms.

Kantharia, learned counsel for the Municipal Corporation has placed on record photographs which indicates that the said tin structures being completely removed.

5. In this view of the matter, further adjudication of the petition is not called for. Insofar as any other contentions of the petitioner are concerned, we keep open all such contentions to be asserted in appropriate proceedings.

6. As already such constructions were illegal and unauthorized and are removed, we direct that unless appropriate permission from the Municipal Corporation is taken, no further construction shall be undertaken by any person including respondent No.3.

7. In the event, any construction is put up in an unauthorized and illegal manner, the Municipal Corporation is free to proceed to take steps in accordance with law to remove such construction.

8. Disposed of in the aforesaid terms. No costs.

9. Interim applications also would not survive, the same stands disposed of.

(ARIF S. DOCTOR, J.)

(G. S. KULKARNI, J.)