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

PUBLIC INTEREST LITIGATION NO. 17 OF 2024

Anuj Krishnakumar Mittal and ors.	... Petitioners
Versus	
State of Maharashtra and ors.	 Respondents

Mr. Subhash Jha a/w Mr. Raveena Yadav, a/w Mr. Siddharth Jha, a /w Mr. Sumeet Upadhyay a/w Mr. Chetan Gogawale, i/b Law Global Advocates, for Petitioners.

Mr. Vishal Thadani, Add. G. P. a/w Ms. Rita Joshi, AGP. for Res No. 1 & 10.
Mr. Milind Sathe, Sr. Adv. a/w Ms. Oorja Dhond i/b Ms.Komal R. Punjabi For Res No.2 to 5 B.M.C.

Mr. Sarosh Bharucha, a/w Mr. Shrey Fatterpekar, a/w Mr. Ameet Mehat, Mr. Nirav Marjadi, a/w Ms. Srushti Mehta, a/w Ms. Rebha Dogra, Mr. Kushal Harnesha, a/w Ms. Ashika Dwivedi, Mr. Sunil Gada, i/b. Solicis Lex For Res No. 7 to 9.

Mr. Satish Kamat for Respondent No.11

**CORAM : ALOK ARADHE, CJ &
M.S.KARNIK, J.**

DATE : 02nd MAY, 2025

P.C. :

1. The petitioners are the social activists and claim to have taken various social causes effecting citizens of India. By this Petition under Article 226 of the constitution of India, jurisdiction of this Court is invoked in public interest, inviting the attention of this Court to the complete failure of respondent no.2- Municipal Corporation of Greater Mumbai ("MCGM") i.e. demolishing unauthorised religious structure

constructed in Chhatrapati Shivaji Maharaj Joggers Park situated at Creek Road, Lokhandwala Complex, Andheri West, Mumbai. An affidavit-in-reply dated 08/01/2025 is filed on behalf of the MCGM affirmed by Shri Ajay Mahadeo Bhondve, working as Designated Officer and Executive Engineer (Building and Factory), 'K/West' Ward in respondent no. 2. In affidavit-in-reply, it is stated that on 16/05/2024 an inspection of the site i.e. Jogger's Park, Opposite Oberoi Sky Heights, Lokhandwala Back Road, Andheri (West), Mumbai 400 053 was done by the officers of the K/West Ward Office, when certain unauthorized constructions were found to be in existence on the said plot. The report is dated 16/05/2024. A show cause notice under Section 351 of the Mumbai Municipal Corporation Act, 1888 ("MMC Act") came to be issued in the name of unauthorized structure. To this, trustees filed reply dated 23/05/2024. A speaking order was passed by MCGM on 29/05/2024 whereby the notice structures were held to be illegal and noticee was directed to remove the notice structures within 15 days from the receipt of the said order. Respondent No.9 challenged the above speaking order dated 29/05/2024 before the City Civil Court, Dindoshi by way of filing a suit. The trial Court by order dated 13/06/2024, refused ad-interim reliefs claimed in the notice of motion. Thereafter letters for requirement of police protection were sent to competent

authorities. Accordingly it is stated that the notice structures except one structure which has been converted into a religious place by the notice were demolished. During the site inspection dated 07/01/2025, it was noticed that the structure has not been removed till date and it is used for religious activities. While going through the reply submitted by the noticee, MCGM learnt that the religious structure which is remaining to be demolished is constructed under the project of 'Development and Beautification of Jogger's Track' which is done by Mumbai Slum Improvement Board MHADA through the MP Lad Scheme Fund and District Planning and Development Council ("DPDC") Fund in the year 2003-2004. The MCGM therefore wanted to call for clarification from MHADA on the said issue and will take further necessary action in accordance with the law.

2. An affidavit-in-reply has been filed on behalf of respondents no. 7, 8 & 9 pointing out that Appeal From Order No. 784 of 2024 in this Court challenging the order dated 13/06/2024 of the City Civil Court is pending. No protective order was however passed in favour of respondents no. 7, 8 & 9. It was submitted that the offending structures have been demolished and photographs have been annexed evidencing such demolition.

3. Shri Jha learned counsel for the petitioners pointed out by way of affidavit that MHADA has categorically taken a stand that the scope of work executed by them was strictly limited to construction of the jogging track, plantation of trees, erection of the compound wall and building of a ticket counter at the entrance to Joggers Park. There is no mention whatsoever of any construction or sanction of religious structures or grant of possession to any private trust or individual.

4. MHADA in its affidavit dated 18/02/2025 submitted that the role of MHADA is very limited i.e. to execute the work as sanctioned by DPDC and with funds of DPDC. It is specifically mentioned that respondent no. 6 has not constructed the religious structure.

5. In the light of the materials on record, it is obvious that the structure in question is illegal and unauthorized. MCGM has therefore initiated action in accordance with law for demolition of said unauthorized structure. It is open for the respondents no. 7 to 9 to contest the claim of the MCGM that the structure is illegal and unauthorized. An appeal from order has already been filed in this Court which they are at liberty to pursue. As of today, there is no legal impediment for MCGM to take action against the unauthorized/illegal structure. In the peculiar facts and

circumstances of this case, we are inclined to grant two weeks time from the date of uploading of this order to respondents no. 7 to 9 to remove the offending structure. If the offending structure is not removed during the aforesaid period, MCGM to act against the offending unauthorized/illegal structure within a period of two weeks thereafter subject to any legal impediment.

6. Shri Milind Sathe learned Senior Advocate appearing on behalf of the MCGM requested to provide police protection. The concerned police station to provide necessary police protection, if the request is so made.

7. The petition is disposed of in the above terms.

(M.S.KARNIK, J.)

(CHIEF JUSTICE)