

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1953 OF 2025

Kannamwar Nagar Shree Krishna Co-op.Hsg.Scty. Ltd. ...Petitioner

Vs

State of Maharashtra & Ors. ...Respondents

Mr. Shakeeb Shaikh with Ms. Bijal Parikh i/b. Mr. Ashraf Diamondwala, for Petitioner.

Mr. Drupad Patil with Ms. Rupali Adhate i/b. Komal Punjabi, for Respondent-BMC.

Ms. Vrushali Kabre, AGP for the State.

Mr. Akshay P. Shinde, for Respondent Nos.4 to 7.

Mr. Bhushan Vardhamane, for Respondent Nos.9, 10, 12, 13 and 14.

Mr. Sushant Patil, Junion Engineer (Maintenance Dept.) 'S' Ward, BMC present.

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

DATE: **2 SEPTEMBER 2025.**

P.C.

1. The present proceedings are listed before us on the backdrop of two orders passed by the co-ordinate Bench of this Court on 11 August 2025 and 12 August 2025. It is clear from the said orders that in respect of some of the respondents, there are Appeals from Order which are filed against the orders passed by the City Civil Court and for such reason, the present proceedings, awaiting the orders to be passed in the pending Appeals from Order, were adjourned for today. Mr. Patil, learned Counsel for the Municipal Corporation informed that the said proceedings were heard by the learned Single Judge on 25 August 2025 and now the same are placed on 9 September 2025. In respect of those respondents in regard to which the Appeals from Order are pending, we need to await the orders to be passed, insofar as three structures which are subject matter of the said appeals are concerned, we are also informed by learned Counsel for Respondent Nos.9, 10, 12, 13 & 14 that his clients have also filed Appeals from Order,

however, in such appeals no protection is granted to these respondents either by the City Civil Court or by this Court.

2. The concern in this petition is of rank encroachment on the footpath as observed by this Court in the detailed order passed on 7 July 2025 in which we had recorded statements as made on behalf of the Municipal Corporation that three structures were already demolished and in accordance with law. We also observed that already an action following the procedure in law is set into motion, and the same needs to be taken forward.

3. We clarify that such action needs to be taken in respect of those proceedings, wherein no protection is granted and as rightly contended on behalf of the petitioner as also agreed by Mr. Patil, learned Counsel for the Municipal Corporation.

4. Thus, except for those respondents who enjoy a protection granted by the learned Judge of City Civil Court or by this Court, the Municipal Corporation in respect of all the other encroachments, the Municipal Corporation shall take an action in accordance with law, for removal of encroachments.

5. Thus, qua the three structures, awaiting the orders being passed by the learned Single Judge of this Court on the Appeals from Order, stand over to **22 September 2025. (HOB).**

6. Appropriate compliance of the present order qua those encroachers who have no protection, be placed on record on the adjourned date of hearing.

(MANJUSHA DESHPANDE, J.)

(G. S. KULKARNI, J.)