

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.2304 OF 2025

Arif Amir Shaikh

....Petitioner

Versus

The Municipal Corporation of Greater
Mumbai and Ors.

....Respondents

Mr. Aseem Naphade a/w. Mr. J.S. Shukla for the Petitioner.
Ms. Meena Dhuri a/w. Ms. Rupali Adhate i/b. Ms. Komal Punjabi
for the Respondent – BMC.

CORAM : RAVINDRA V. GHUGE
&
ASHWIN D. BHOBE, JJ.

DATE : 8th SEPTEMBER, 2025

P.C. :-

1. The Petitioner has put forth prayer clauses (a) to (c), as
under :

(a) This Hon'ble Court be pleased to invoke its powers u/art. 226 and issue a Writ of Mandamus or any other appropriate writ in nature of Mandamus or directions directing the respondent Nos.1 and 2 to remove and/or demolish illegal and unauthorisedly constructed 7 temporary structures made up of G.I. Sheets as well as Walls and A.C. Sheets roof constructed upon property Viz. Survey No.17, Hissa No.04, C.T.S. No.72, Situated at Patel Wadi, Marve Road, Malad (West), Mumbai-400095 at Village-Marve, Taluka Borivali, Mumbai Suburban District each admeasuring about 10 x 30 Sq.Ft.

(b) That this Hon'ble Court be pleased to direct the Respondent no.1 and 2 to promptly appoint

appropriate officer as authorized officer under the provisions of the MRTP Act to register complaint against the Respondent No.6 to 8 and their associates for having committed offence under the provisions of MRTP Act.

(c) That this Hon'ble Court be pleased to direct the Respondent no.1 and 2 to initiate and conduct departmental inquiry against Respondent No.3 to 5 for abusing their powers and demanding from Petitioner for execution of their official duty against said illegal and unauthorized Construction and thereafter take appropriate action against them in accordance with the provision of law.

2. The Petitioner has already filed Special Civil Suit No.240 of 2023 before the City Civil Court for Greater Mumbai at Dindoshi, Borivali Division. In that Suit, it is alleged that the Defendants therein were encroaching upon the Petitioner's property. By an interim order dated 27th April, 2023, the learned Court has issued an injunction on the Notice of Motion No.340 of 2023 to the Defendants or anybody claiming through them, restraining them temporarily from grazing their cattle on the Suit property, till the disposal of the Suit.

3. By the present Petition, the Petitioner claims that Respondent Nos.6 to 8 have illegally erected a structure on a portion of the property of the Petitioner in the nature of G.I. sheets, walls and A.C. sheets roof.

4. We find that the allegations of encroachment and illegal construction post encroachment, are seriously disputed issues. Recording of oral and documentary evidence to factually establish whether the structure is by way of an encroachment and illegal construction or not, will have to be considered by a Court which can record such oral and documentary evidence. For a similar cause of action, the Petitioner is already before the City Civil Court in Special Civil Suit No.240 of 2023.

5. In view of the above, **this Petition is disposed off** with liberty to the Petitioner to approach the City Civil Court and make out a case of encroachment and illegal construction. All contentions of all the stakeholders/litigating parties are kept open.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)