

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

WRIT PETITION NO. 2553 OF 2025

Raj-Garden Co-operative Housing
Society Ltd.

... Petitioner.

V/s.

Assistant Commissioner, Municipal
Corporation of Gr. Mumbai. & Ors.

... Respondents.

Mr. Girish Godbole i/b. Mr. Shivraj Patne, Advocate for Petitioner.

Mr. Manish Upadhye, AGP for Respondent/State.

Mr. S.V. Tondwalkar i/b. Komal Punjabi, Advocate for Respondent
BMC.

Ms. Purva Basrur i/b. DM Legal Associate, Advocate for Respondent
No. 9.

**CORAM : RAVINDRA V. GHUGE AND
ASHWIN D. BHOBE, JJ.**

DATE : 10th NOVEMBER, 2025

P.C. :

1. We have heard the learned Senior Advocate for the
Petitioner, learned AGP on behalf of the State and the learned Advocate
on behalf of the Corporation.

2. Leave to correct the date of the representation in prayer

clauses (d), (e) and (i). Correction be carried out forthwith.

3. The Petitioner has candidly stated in the Petition that Suit No. 2227 of 2018 has been instituted at the Bombay City Civil Court at Dindoshi. We have perused the 16 prayer clauses set out in the Civil Suit, wherein Petitioner/Plaintiff has added some prayers by way of an amendment. We have also perused the prayers put forth by the Petitioner/Plaintiff in this Petition. Since we find that most of the prayer put forth before us are already being considered by the Bombay City Civil Court in the pending Suit, we would not entertain the said prayers in this Petition.

4. Suffice it to say that the learned Senior Advocate rightly submits that, on account of the purported encroachment, a fire fighting engine would be unable to move freely within the premises of the Petitioner or navigate itself for the purpose of battling a fire in the event of their being fire in the building, owing to the purported encroachment. With regard to the encroachment, Bombay City Civil Court has already rejected the Application for Interim Relief.

5. In the above backdrop, the learned Senior Advocate submits

that the issue of the request for permission to construct a compound wall to protect the property of the Petitioner, is raised in the representation dated 29/4/2025 which is pending before Respondent No. 3.

6. The learned Advocate representing Respondent No. 9, who is alleged to be an encroacher, submits that the Civil Court has refused Interim relief to the Petitioner/Plaintiff after the said Respondent/Defendant convinced the Court of the rights vested in it by law. The learned Senior Advocate for the Petitioner submits that the order of rejection for injunction is restricted only to the extent of the prayer of the Plaintiff/Petitioner that the gate should not be demolished.

7. We would not wish to go into the disputed issues since the Civil Court is already dealing with the Suit preferred by the Petitioner/Plaintiff.

8. In the above, backdrop, we are inclined to direct Respondent No. 3 to deal with only aspect from the representation dated 29/4/2025, viz, whether the Petitioner could be permitted to construct a compound wall to protect its property.

Needless to state, all stakeholders would be given an opportunity of hearing along with the present Petitioner/Plaintiff, by Respondent No. 3 and a reasoned order be passed within a period of 75 days from today. All contentions of the Petitioner as well as the stakeholders, are kept open to be considered by Respondent No. 3.

9. In so far as the issue of easy movement of a fire fighting engine in the premises, to douse the fire in the event a fire breaks out in the society, that aspect will be considered by Respondent No. 5, considering the jurisdiction vested in it by law and the above directions in granting a hearing to all the stakeholders and the time line, would equally apply to the Respondent No. 5 as well.

10. In view of the above directions, this **Petition is disposed off.**

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)