



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 259 OF 2025

Khemchand Bherumal Bajaj Dharamshala and Hospital Trust,
through Managing Trustee Dr.Girdharilal Khemchand Bajaj,
aged about 79 years, occupation : Business, R/o Krishna
Nagar, District Amravati.

PETITIONER

VERSUS

1. Municipal Corporation, Amravati, Through its
Commissioner, R/o Rajkamal Chowk, Amravati,
District : Amravati.
2. The Deputy Commissioner, Municipal Corporation
of the City of Amravati, having Office at Rajkamal
Chowk, Amravati.
3. Sunil Gunwantrao Mankar, aged about 55 years,
Occ: Business, C/o Ram Laxman Sankul, Sindhi
Chowk, College Road, Amravati.

RESPONDENTS

Shri M. Anilkumar, counsel for the petitioner.
Shri J.B. Kasat, counsel for the respondent nos.1 and 2.
Shri P.R. Agrawal, counsel for the respondent no.3.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : NOVEMBER 17, 2025

ORAL JUDGMENT

RULE. Rule is made returnable forthwith and heard finally with the
consent of the learned counsel for the parties.

2. Petitioner-Khemchand Bherumal Bajaj Dharamshala and
Hospital Trust (for short, 'the petitioner-Trust') has challenged the order
dated 16.11.2024 passed by the Principal District Judge, Amravati thereby
allowing the application for intervention at Exhibit 25 in appeal under Section
81-F of the Maharashtra Municipal Corporations Act, 1949 (for short, 'the Act
of 1949').

3. On 16.10.2007, the petitioner-Trust had applied for development of land bearing Nazul Plot no.6, Sheet no.50 situated at Amravati in the layout of Shetkari Sahakari Ginning and Pressing Society Limited and accordingly the lease was granted in its favour for a period of thirty years commencing from 06.06.2008. On account of certain developments, the lease came to be terminated by Amravati Municipal Corporation (for short, 'the Corporation') by its order dated 22.01.2021 and therefore the petitioner-Trust filed Regular Civil Appeal no.28 of 2021 under Section 81-F of the Act of 1949 which is pending before the Court of Principal District Judge, Amravati. During pendency of the said appeal, the respondent no.3 filed an application under Order I Rule 10 of the Code of Civil Procedure, 1908 (for short, 'the Code') for intervention in the appeal. By order dated 16.11.2024, the application came to be allowed and the petitioner-Trust has challenged this order by way of the instant petition.

4. Primary contention of the counsel for the petitioner is, the petitioner-Trust has filed the statutory appeal challenging the termination of agreement and the necessary parties to the appeal have already been joined. The petitioner is the *dominus litis* and the application for intervention filed by the respondent no.3 in his personal capacity deserved to be rejected. He further submitted that the respondent no. 3, acting under the guise of representing the Society, has no right whatsoever over the land to which the appeal pertains. In support of his submissions, the learned counsel for the petitioner-Trust relied on the judgments of the Hon'ble Supreme Court in ***Mumbai International Airport Pvt.Ltd. Versus Regency Convention Centre & Hotels Pvt.Ltd. & Others*** [(2010) 7 SCC 417] and ***Kasturi Versus Iyyamperumal***

[(2005) 6 SCC 733] and submitted that the position of law is settled that the plaintiff being *dominus litis* may choose persons against whom he wishes to litigate and he cannot be compelled to contest the litigation against third parties.

5. Shri PR. Agrawal, learned counsel for the respondent no.3 vehemently submitted that the claim of the petitioner-Trust on the land is infact a claim on open space which is kept for playground of the layout and since the petitioner-Trust has made certain illegal constructions, the agreement came to be terminated. He therefore submitted that the respondent no.3 being a resident of the layout was entitled to intervene in the appeal and submitted that the petition deserves to be dismissed.

6. While considering the controversy involved in the petition, it has to be seen that the challenge is to the order passed by the Court allowing the application for intervention. A perusal of the application filed by the respondent no.3 under Order I Rule 10 of the Code shows that the application is filed by him in the personal capacity. However, the impugned order is passed by considering the contentions advanced by the respondent no.3 by wrongly considering its capacity as President of Shetkari Sahakari Ginning and Pressing Society Limited, Amravati. A perusal of the impugned order shows that the Court has considered the application from the perspective of the Society by considering the possible grievances of the residents about use of land and allowed the application for intervention. It has to be seen that the appeal filed by the petitioner-Trust is a statutory appeal under Section 81-F of the Act of 1949 challenging the termination of

agreement by the Corporation. An individual person like the respondent no.3 cannot be considered to be a necessary party to this statutory appeal. Although the contentions tried to be raised by the respondent no.3 about alleged illegal allotment of the land in favour of the petitioner at the cost of use of the land for playground for the citizens could be a genuine issue, however, an individual person need not be allowed to interfere in the proceedings of the statutory appeal. The impugned order is passed as if the application for intervention is filed by the President of the Society and even though nothing is demonstrated to show that the respondent no.3 is a necessary party, the application for intervention is allowed. Allowing an intervention application of the respondent no.3 is thus unsustainable in law. It needs to be clarified that the application at the instance of the Society raising certain issues of public importance can be independently entertained if it is demonstrated that the Society is a proper party to the appeal.

7. In view of aforesaid, the impugned order deserves to be quashed and set aside. It is clarified that except the issue of claim for intervention by the respondent no.3 in his individual capacity, rest of the contentions of the parties on merits are not dealt with. For the above mentioned reasons, the petition needs to be allowed. Hence, the following order is passed:-

- I. The writ petition is allowed.
- II. The impugned order dated 16.11.2024 passed by the Principal District Judge, Amravati on application at Exhibit 25 in Regular Civil Appeal No.28 of 2021 is quashed and set aside. The application filed by the respondent no.3 for intervention at Exhibit 25 is rejected.

III. The statutory appeal filed by the petitioner-Trust under Section 81-F of the Maharashtra Municipal Corporations Act, 1949 be decided expeditiously.

8. Rule is made absolute in aforesaid terms. The writ petition is disposed of with no order as to costs.

(PRAFULLA S. KHUBALKAR, J.)

APTE