2026:BHC-AUG:51904



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**BENCH AT AURANGABAD**

910 **CIVIL APPLICATION NO. 11594 OF 2026**
**IN WP/4797/2004**

Subhash Kesharmal Barlota -
Through -
P.O.A. Holder Mohd Abdul Shakeel ..Applicant

*VERSUS*

Rayaji Natha Autade
And Others ..Respondents

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Mr.Anil Bajaj, Advocate for applicant

Mr.Aditya V. Kasne, Advocate h/f. Mr.V.D.Salunke, Advocate for petitioner in W.P. No.4797/2004

Mr.K.B.Jadhavar, AGP for respondents – State Authorities

Ms.Meena S. Deshmukh, Advocate for respondent no.10 in W.P. No.4797/2004

Mr.Parth Salunke, Advocate for respondent – Municipal Corporation

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**CORAM : AJIT B. KADETHANKAR, J.**
**DATE : OCTOBER 23, 2026**

**PER COURT :-**

Heard learned advocates appearing for the parties.

2. Mr.Bajaj, learned advocate for the applicant places reliance on an order passed by this court on 05.08.2004 in Writ Petition No.4797 of 2004. He would take me to the text of paragraph 8 of the said order which reads thus:-

> "8. By way of interim relief the impugned order dated 16.02.2004 passed by the Minister of State (Marketing) is hereby stayed. At the same time it is directed that the Collector, Aurangabad, in coordination with the Liquidator (respondent no.7) will take steps to take possession of this land for the time being and also to protect the land from any encroachment. No property movable or immovable of this society and standing in the subject premises shall be disposed of without the leave of this Court."

3. It is further submitted by Mr.Bajaj, learned advocate for the applicant that this court stayed the order passed by Hon'ble Minister of State (Marketing) dated 16.02.2004 and directed the District Collector to be in ordination with the Liquidator i.e. respondent no.7 to take possession of the subject-matter land for the time being and also to protect the land from any encroachment. It was further directed that no property, movable or immovable of the Society, and standing on the subject-matter premises shall be disposed of without leave of this court. Mr.Bajaj further submits that the said Writ Petition is still pending and the order dated 05.08.2004 is not disturbed by any subsequent order of this court or Hon'ble Supreme Court. On this backdrop, this application is filed with a contention that some construction is sought to be carried out on the subject-matter site on which prohibitory orders have been passed by this court.

4. The application is supported with certain colour photographs to demonstrate that some earthmovers are standing on one ground and they are conducting certain work either of clearing the debris or levelling it. The applicant submits that the earthmovers are carrying out the said activities on the very subject-matter site for which prohibitory orders are passed by this court on 05.08.2004.

5. Mr.Bajaj, learned advocate for the applicant further submits that it is learnt by the applicant that the respondent - Municipal Corporation has passed a resolution thereby proposing to construct a stadium over the subject-matter property. It is, thus, prayed to direct the District Collector to immediately stop the illegal construction activities over the subject-matter site. Since the respondent - Municipal Corporation is not a party to the main Writ Petition, Mr.Bajaj submits that in the present Civil Application the Municipal Corporation is made party.

6. This matter was argued in the first session of the day for some time. In order to ascertain the real position about the grievance raised by the applicant, this court directed learned AGP to take instructions directly from the District Collector and the Divisional Commissioner, Aurangabad and Mr.Parth Salunke, learned

advocate to take instructions from the authorities of Municipal Corporation.

7. In the second session of the day, Mr. Parth Salunke, learned Advocate appearing for the Corporation, submits that there is no resolution passed by the Municipal Corporation to undertake any construction of whatsoever nature on the subject-matter site. He further submits that there is no reservation on the subject-matter land and that there is neither any occasion to undertake any construction nor any proposal to permit any person to carry out construction on the said site.

8. Mr.Jadhavar, learned AGP also echoes the same submissions. He additionally, on instructions from the District Collector, apprises that the said site was cleared by the earthmovers merely to remove the debris and to ensure that any unlawful and anti-social elements, which were found to have been using the said site illegally, are prohibited. He submitted that such clearance was conducted to have check on the illegal activities of the anti-social elements.

9. Mr.Jadhavar, learned AGP for the State authorities and Mr.Parth Salunke, learned Advocate for the Municipal Corporation, on instructions, and with the assistance of the Deputy Commissioner of the Municipal Corporation, Chh. Sambhajinagar, state that the State authorities and the Municipal Corporation are bound by the orders passed by this Court on 05.08.2004 in Writ Petition No.4797 of 2004 and no activity of construction is proposed on the subject-matter.

10. In view of the above statement, the grievance and apprehension of the applicant stands redressed and there is no need to pass any separate order on this application.

11. At this juncture, and particularly in view of the unnecessary controversy that has arisen due to a misunderstanding, as well as to protect the subject-matter property from encroachment and unauthorised use by anti-social elements, an oral request is made on behalf of the District Collector seeking permission to erect wire fencing around the entire site. None of the parties has any objection to the said proposal. In fact, such a measure would be in the interest of protecting the subject-matter site, particularly in the light of the order dated 05.08.2004 passed by this Court. Hence, the permission is granted. The District Collector shall ensure that no

private party or any party enters into the subject-matter land in violation of this Court's order (supra). The District Collector shall promptly take action against such entities who, under the garb of anything attempts to enter into the subject-matter site in violation of this Court's order (supra), and/or make a capital of it.

12. In view of the above, the Civil Application stands disposed of.

13. The Court appreciates the prompt response given by the Municipal Commissioner, District Collector and the Divisional Commissioner, on the backdrop they being busy in the elections to the Maharashtra Legislative Council.

**[AJIT B. KADETHANKAR, J.]**

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