



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

WRIT PETITION NO. 1913 OF 2026

Dipak Balram Shinde

VERSUS

The State Of Maharashtra And Another

Mr. V. V. Ghansawdh h/f Mr. M. V. Thorat, Advocate for petitioner
Mr. S. B. Narwade, AGP for respondent-State

**CORAM : Smt. Vibha Kankanwadi &
Hiten S. Venegavkar, JJ.**

DATE : 23rd February, 2026

PER COURT :-

1. Present petition has been filed for following relief :-

B. By issuing writ of mandamus or by way of any other appropriate writ, order or directions in like nature, this Hon'ble Court may kindly be direct respondent No. 2 consider the grievance of the petitioner and also direct to handover the possession of Plot No. 51, Survey No.531, Vikas Nagar/Shravasti Nagar, Gangakhed Road, Parbhani.

2. Heard learned Advocate for petitioner and learned AGP.

3. According to the petitioner, the respondent No. 2 has illegally demolished the house of the petitioner. Petitioner states that he has purchased Plot No. 51 from one Shamsundar Shukla, which was a notarized sale deed executed on 12.09.2005. The vendor of the petitioner had taken NA permission for the entire plot and then the plot

was divided into two parts. A development plan is stated to have been revised and the reservation on Survey No. 531 is from the year 2020. The Municipal Corporation had levelled tax on the construction made and accordingly, the taxes have been paid. However, the corporation has issued notices to petitioner and other resident of the area contending that they have made encroachment on 20 feet road but demolition has been carried out without following due procedure. According to the petitioner, in fact the construction that was made, was after getting the permission to construct under Ramai Gharkul Awas Yojana. When the illegal demolition has been made, petitioner is seeking the possession of the demolished land.

4. Here, it is to be noted that mere levying tax on the structure will not make the construction legal. If we consider the tax bills for the year 2021-2022, 2024-2025, there is specific mention about the construction being illegal. Along with the present petition no document has been annexed that is regarding the construction plan. The important point is that the petitioner claims to be the owner of the property on the basis of a notarized document. Document styled as sale deed is on Rs. 100/- stamp paper wherein the valuation of the property has been shown as Rs. 36,000/-. When the value of the immovable property is more than 100, it has to be a registered instrument. On 12.09.2005, the date on

which the document was executed, there was no construction. We cannot say that the ownership stood transferred in the name of the petitioner in absence of the legal and valid document. We had asked as to when there is no proper and legal title document then how a house could have been granted under a Government Scheme; however, the work order is dated 12.11.2021. In notice dated 05.04.2022, it is specifically mentioned that as regards the construction made under the scheme, was within a land owned. Thereafter, there is encroachment to the extent of 15 feet on 20 feet road and on 05.04.2022, the said construction was at the plinth level. There appears to be various notices given at different stages and different times and, therefore, when proper procedure *prima facie* appears to have been adopted, it would then become a disputed question of the fact in respect of the allegation that the respondent No. 2 has demolished the construction of the petitioner illegally. Therefore, this is not a fit case where we should exercise our powers under Article 226 of the Constitution of India.

5. Petition stands dismissed.

(Hiten S. Venegavkar, J.)

(Smt. Vibha Kankanwadi, J.)

B. S. Joshi