



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5078 OF 2026

Mustak Beg Jahur Beg
& others

.. Petitioners

versus

The State of Maharashtra
& others

.. Respondents

Mr. J. M. Murkute, Advocate for the Petitioners.
Mr. V. M. Kagne, AGP for the State.

**CORAM : SMT VIBHA KANKANWADI
& AJIT B. KADETHANKAR, JJ.**

DATE : 5th MAY, 2026.

PER COURT :

1. Not on board. Taken on board.
2. Heard learned Advocate for the Petitioners. Petitioners are challenging notice dated 21.04.2026 issued by Respondent No. 2 which is in respect of demolition or removal of construction of the Petitioners situated at Lala Sardar Nagar, Dhule.
3. Learned Advocate for the Petitioners contends that the Petitioners are occupying the respective places since last 50 years. They have their *kaccha* as well as *pakka* houses. The issue in respect

of regularisation of their construction is pending for a long time. The Petitioners are paying property tax since 1991-1992. According to the Petitioners, their houses are not obstructing the flow of “Sushi Nala” or any water course. By Government Resolution dated 25.03.2026, regarding regularisation of encroachment on the Government land, the Petitioners are even entitled for the alternate houses. No steps have been taken but the Sub-Divisional Officer, Irrigation Department, Dhule, has issued the impugned notice without any authority and under a wrong assumption of powers. The notice issued is illegal. Similarly situated persons had approached the Civil Judge, Senior Division, Dhule, by filing Regular Civil Suit No. 282/2025 and the concerned Court, by order dated 15.10.2025, had directed the defendants to maintain status quo.

4. Here, it is to be noted that when the Petitioners themselves are coming with a case that the similarly situated persons have approached the Civil Court, then there is no hurdle for the Petitioners also to approach the Civil Court. Alternate efficacious remedy is available to the Petitioners. Now, as regards possession of the Petitioners is concerned, the Petitioners have not pleaded as to under which rights they had taken possession of the respective

premises. Certainly, it appears to be an encroachment and now as regards regularisation is concerned, the Petitioners are then relying upon the recent Government Resolution dated 25.03.2026. The Petitioners are also relying on the communication dated 24.05.2023 and the map annexed therewith to state that the proposal for regularisation is pending. Now, it appears that the Municipal Corporation, Dhule, had undertaken the work of measurement and thereupon the measurement has been carried out. It is under the scheme “सर्वासाठी घर-2022”. If the proposal of the Petitioners, of which copy has not been produced by the Petitioners, is pending before the concerned authority since long, then why the Petitioners are not pursuing the same, has not been explained. If the Petitioners want to take advantage of the recent Government Resolution dated 25.03.2026, then they should have approached the concerned authority under the Government Resolution for regularisation as in the said Government Resolution itself, the form or procedure for regularisation has been carved out. Without adopting the procedure therein, the Petitioners cannot take advantage of the said Government Resolution. Petitioner No. 1 appears to have given reply on 27.04.2026 to the notice dated 21.04.2026. It is stated that the final decision on the said notice has not yet been taken. We must

observe that mere payment of property tax will not be considered as a legal act for erection of the structure. There appears to be no permission obtained for construction by the Petitioners from the legal authority.

5. We do not want to keep the matter lingering. However, at the same time, if the points are raised before Respondent No. 2, then they will have to be addressed and a decision will have to be given by Respondent No. 2 or the competent authority. We, therefore, dispose of the writ petition by directing Respondent No. 3 to take a decision on the objection raised by way of reply dated 27.04.2026 by the Petitioners but which should be then treated for the others also, within a period of eight weeks from today. In the meantime, Respondent No. 3 or any other person through Respondent No. 3 shall not take any coercive action against the Petitioners. We make it clear that, if at all, in between, the Petitioners approach the Civil Court, then the Civil Court to take its own decision on the basis of the facts those would be presented before it.

(AJIT B. KADETHANKAR)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE

dwb