IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11290 OF 2025

Dhairyasheel Pralhad Lambore
Age. 39 years Occu. Business
R/at. R.S. No. 1011, Plot no. 2/3,
Survey Colony, 'A' Ward
Radhanagari Road, Kolhapur ...Petitioner

Versus

1. Kolhapur Municipal Corporation
Having its office at
Kolhapur Mahanagarpalika,
Bhausingji road, Kolhapur
Through Administrator/Municipal Commissioner

2. Secretary,
Urban Development Department,
Navi-13, State of Maharashtra
Office at: Mantralaya, Mumbai-400032 ...Respondents

WITH
WRIT PETITION NO. 11289 OF 2025

1. Ananda Krishnat Karape
Age. 37 years
R/at. Dhangar Galli, Kasaba Bawada
Kolhapur. ...Petitioners

2. Kalavati Krishnat Karape
Age. 59 years
R/at. Dhangar Galli, Kasaba Bawada
Kolhapur.

3. Kashinath Krishnat Karape
Age. 39 years

R/at. Dhangar Galli, Kasaba Bawada
Kolhapur.

4. Manisha Sarjerao Jong
Age. 45 years
R/at. Dhangar Galli, Kasaba Bawada
Kolhapur.

Versus

1. Kolhapur Municipal Corporation
Having its office at
Kolhapur Mahanagarpalika,
Bhausingji road, Kolhapur
Through Administrator/
Municipal Commissioner

2. Secretary,
Urban Development Department,
NaVi-13, State of Maharashtra
Office at: Mantralaya, Mumbai-400032 ...Respondents

WITH

WRIT PETITION NO. 11655 OF 2025

1. The Commissioner/Administrator,
The Kolhapur Municipal Corporation.

2. The Additional Commissioner,
The Kolhapur Municipal Corporation.

3. The Asst. Director of Town Planning,
Kolhapur Municipal Corporation,
Kolhapur.

4. The Deputy City Planner,
Town Planning Department,

Kolhapur Municipal Corporation,
Kolhapur.

5. The Junior Engineer,
Town Planning Department,
Kolhapur Municipal Corporation,
Kolhapur. ...Petitioners

Versus

1. The State of Maharashtra,
Through Principal Secretary,
Urban Development Department,
Mantralaya, Mumbai.

2. Dharysheel Pralhad Lambore,
Age: 39 years, Occu: Developer,
R/o: 1011/2/3, Sarveyor Colony, Near
Mahadev Mandir, Sane Guruji Vasahat,
Kolhapur-416012.

3. Samrat Subhas Korane,
Through Power of Attorney,
Mayuri Samrat Korane,
Age: Major, Occu: Housewife,
R/o: Kolhapur. ...Respondents

WITH

WRIT PETITION NO. 12603 OF 2025

1. The Commissioner/Administrator,
The Kolhapur Municipal Corporation.

2. The Additional Commissioner,
The Kolhapur Municipal Corporation.

3. The Asst. Director of Town Planning,
Kolhapur Municipal Corporation,
Kolhapur.

4. The Deputy City Planner,
Town Planning Department,
Kolhapur Municipal Corporation,
Kolhapur.

5. The Junior Engineer,
Town Planning Department,
Kolhapur Municipal Corporation,
Kolhapur. ...Petitioners

Versus

1. The State of Maharashtra,
Through Principal Secretary,
Urban Development Department,
Mantralaya, Mumbai.

2. Kalawati Krushnath Karape,
Age: 58 years, Occu: Household,
R/o: 47 E, Dhangar Galli, Kasba Bawada,
Kolhapur.

3. Kashinath Krushnath Karape,
Age: 38 years, Occu: Service,
R/o: 47 E, Dhangar Galli, Kasba Bawada,
Kolhapur.

4. Ananda Krushnath Karape,
Age: 36 years, Occu: Service,
R/o: 47 E, Dhangar Galli, Kasba Bawada,
Kolhapur.

5. Manisha Sarjerao Jog,
Age: 45 years, Occu: Household,
R/o: Rashiwade Budruk, Tal: Radhanagari,
Dist: Kolhapur. ...Respondents

Mr. Drupad S. Patil with Mr. Rugwed R. Kinkar, for the Petitioners in WP/11290/2025.
Mr. Abhijeet M. Adagule, for the Petitioners in WP/11655/2025 & 12603/2025.
Mr. Prashant Bhavake with Mr. Utkarsh Desai, for the Petitioners in WP/11289/2025.
Mr. Siddheshwar B. Kalel, AGP, for the Respondents-State in WP/11290/2025.
Mr. V. G. Badgujar, AGP, for the Respondents-State in 11655/2025.
Mr. V. M. Mali, AGP, for the Respondents-State in WP/12603/2025.
Mr. Prashant Bhavake with Mr. Utkarsh desai, for the Respondent Nos.2 to 5 in WP/12603/2025.

Coram : Sharmila U. Deshmukh & Neeraj P. Dhote, JJ.

Date : October 09, 2026.

ORAL JUDGMENT : (Per Sharmila U. Deshmukh, J.)

1. **Rule**. Rule made returnable forthwith. Heard finally by consent of the parties. The Petitions raise identical issue of grant of Construction Amenity TDR. Common submissions were canvassed and the petitions are disposed of by common Judgment.

2. This group of petitions concerns the grant of Construction Amenity TDR, which was directed by the State Government to be given to the Petitioners by the order of 14th October 2024 passed in an appeal filed by the Petitioners under Section 47 of the Maharashtra Regional and Town Planning Act, 1966 (for short, '**MRTP Act**'), due to refusal on the part of the Kolhapur Municipal Corporation to grant the Construction Amenity TDR. Writ Petition No.11290 of 2025 and Writ Petition No.11289 of 2025 have been filed by the Petitioners seeking a writ of *mandamus* directing the Respondent No.1-Kolhapur Municipal

Corporation, to forthwith issue the Development Right Certificate (for short, '**DRC**') of balance TDR/Amenity TDR. Writ Petition No.12603 of 2025 and Writ Petition No.11655 of 2025, filed by the Commissioner/Administrator of Kolhapur Municipal Corporation, challenges the order/directions issued by the State Government on 14th October 2024 directing the issuance of Construction Amenity TDR.

3. For the sake of clarity, the facts of Writ Petition No. 11290 of 2025 have been referred to. The Petitioners in Writ Petition No. 11289 of 2025 are identically situated.

4. The Petitioners are the lawful owners of land admeasuring 4200 Sq. Mtrs. bearing R.S. No.943/A/2/1 situated at Kasaba Bavada, District Kolhapur. On 23rd January 2019, the Petitioners submitted proposal to surrender the land in lieu of permissible TDR under the Development Control and Promotion Regulations for D-Class Municipal Corporations in Maharashtra, 2016 (for short, '**D.C.Rules of 2016**'). On 25th January 2019, the application was processed and joint measurements were directed to be carried out and were accordingly carried out. On 15th May 2019, the Kolhapur Municipal Corporation issued Letter of Intent (for short, '**LOI**') agreeing to grant TDR, subject to the fulfillment of certain conditions. On 6th June 2019, the Petitioners sought approval for the specifications and estimate for construction of the DP road, which was granted. On 25th October 2021, the Petitioners completed the

construction of the road as per the specifications and executed a registered possession receipt. On 10th December 2021, the Petitioners submitted an application to the Respondent-Corporation to process the application for grant of TDR taking into consideration Rule 40.4.2 of D.C.Rules 2016. The Development Right Certificate (for short, '**DRC**') was issued in respect of the land and was refused for the road. The Petitioners, therefore, submitted an application for recalculation of the permissible TDR, which came to be rejected, as against which the Petitioners approached the State Government, which passed the impugned order.

5. Mr. Patil, learned counsel appearing for the land owners, would submit that the provisions of the Unified Development Control and Promotion Regulations for Maharashtra (for short, '**UDCPR**') permit the grant of TDR, where the owner develops or constructs the amenity on the surrendered plot at his own cost and hands over the same free of cost to the Authority. He submits that as there was refusal on the part of the Corporation to grant the Construction Amenity TDR, the Petitioners approached the State Government and by the order dated 14th October 2024, which are in the nature of directions under Section 154 of the MRTP Act, the State Government directed the Corporation to issue the Construction Amenity TDR. He submits that instead of

complying with the same, the Corporation has filed the present petitions challenging the order of 14th October 2024. He submits that the road has been constructed and handed over on 25th October 2021 and till date, despite the order of the State Government, the Corporation has failed to issue the Amenity TDR.

6. Mr. Adagule, learned counsel appearing for the Municipal Corporation would submit that there is no dispute as regards the entitlement of the Petitioners to the TDR and the dispute is as regards the compliance of the conditions, subject to which the Construction Amenity TDR can be issued. Pointing out Clause 11.2.5 of the UDCPR, which was issued in 2020, he submits that the Petitioners would be entitled for Construction Amenity TDR, subject to the conditions mentioned therein and what has not been complied with is Clause (ii), which provides that one end of the road should meet the other existing public road. He would further submit that the property of the Respondent now falls within the 'Prohibited Zone' and clarification has sought from the State Government regarding the construction of the D. P. road in the said zone and by virtue of the restrictions imposed in view of the Government Notification, the DP road cannot be constructed and TDR cannot be granted for a reservation, which is non-developable for the intended purpose. He submits that on 3rd June 2022, the State

Government, by notification, modified the Blue Line for the city of Kolhapur and there is no decision taken regarding the permissibility of construction of the D. P. road within the said Blue Line.

7. We have considered the submissions and perused the record.

8. There is no factual dispute as regards the surrender of the constructed D. P. road to the Corporation and the entitlement of the Petitioners to the Construction Amenity TDR. The Corporation, though ordered by the State Government to issue the Construction Amenity TDR, has preferred a challenge before this Court as, according to the Corporation, the UDCPR provides for the grant of the Amenity TDR, subject to the conditions, which are specified therein and according to them, the same has not been complied with.

9. In this context, it would be apposite to reproduce Clause 11.2.5 of the UDCPR, which reads as under:

> *"11.2.5 Transferable Development Rights (TDR) against Construction of Amenity- When an owner or lessee, with prior approval of Authority, develops or constructs the amenity on the surrendered plot, at his own cost subject to such stipulations as may be prescribed and to the satisfaction of the Authority and hands over the said developed/constructed amenity free of cost to the Authority, then he may be granted a Transferable Development Rights (TDR) in the form of FSI as per the following formula :-*
>
> *Construction Amenity TDR in Sq.m. = A/B 2.00*

Where,

A = cost of construction of amenity in rupees as per the rates of construction mentioned in Annual Statement of Rates (ASR) prepared by the Inspector General of Registration for the year in which construction of amenity is commenced. (In case of construction of new D.P. road, cost of construction as worked out on the basis of District Schedule of Rates.)

B = land rate per Sq.m. as per the Annual Statement of Rates (ASR) prepared by the Inspector General of Registration for the year in which construction of amenity is commenced.

In case of buildings like auditorium, assembly etc. wherein height of building is more, cost of the building may be worked out from the Public Works Department as per applicable DSR. Also expenses for ancillary requirements only of immovable items like acoustic etc. may also be included in such cost. Such expenses for ancillary requirement may also be considered for hospital and educational buildings.

If any person, with the consent of the authority, constructs D.P. road by obtaining development rights/consent of the other owners whose land is covered under the D.P. road, then such person may be entitled for construction amenity TDR subject to-

i) This provision shall only apply to construction of new road proposed in the Development Plan.

ii) One end of road should meet other existing public road.

iii) The specifications for construction of road shall be as decided by the Authority."

10. A plain reading of Rule 11.2.5 indicates that the said Rue covers grant of TDR, in cases where (a) the owner or the lessee develops or

constructs the amenity on the surrendered plot at his own cost and (b) where any person, by obtaining development rights/consent of the owners, applies for Construction Amenity TDR. It is only where the D. P. road is constructed by an individual/entity by obtaining the development rights from the owner then the conditions which are specified in Clause (i), (ii) and (iii) have to be complied with.

11. Insofar as the Petitioners are concerned, there is no dispute that the Petitioners are owner of the land and with the prior approval of the authority, had developed and constructed the amenity on the surrendered plot at their own cost and it is not the submission of the Corporation that all conditions as stipulated by the Corporation have not been complied with. The Corporation seeks to place reliance on the portion of Rule 11.2.5, which would be applicable where a developer constructs the D. P. road, and not where the owner constructs the amenity on the surrendered plot. In the present case, the provision has been clearly misinterpreted by the Corporation and has been rightly considered by the State Government, pursuant to which the order of 14th October 2025 is passed.

12. Insofar as the contention as regards the modification of the Blue Line, by which the property of the Petitioners falls within the Prohibited Zone, is concerned, it is not a matter of concern for the Petitioners, who have constructed the amenity on the surrendered plot at their own cost.

It is for the Corporation to take up the issue with the State Government, if so advised and by reason of the modified Blue Line, the entitlement of the Petitioners cannot be withdrawn. As the Petitioners have already constructed the amenity on the surrendered plot, the issue of the modified Blue Line will not apply in the present case.

13. In light of the above, Writ Petition No.11290 of 2025 and Writ Petition No. 11289 of 2025 are allowed in terms of prayer clause (a).

14. The Writ Petition No. 12603 of 2025 and Writ Petition No. 11655 of 2025 stand dismissed.

15. The Corporation to issue the Development Rights Certificate within a period of four weeks from today.

16. Rule is made absolute absolute in Writ Petition No.11290 of 2025 and Writ Petition No.11289 of 2025 and Rule is discharged in Writ Petition No. 12603 of 2025 and Writ Petition No. 11655 of 2025.

[Neeraj P. Dhote, J.] **[Sharmila U. Deshmukh, J.]**

RAJU DATTATRAYA GAIKWAD
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Date: 2026.10.13 21:25:20 +0530