IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10508 OF 2026

Shantaram Sadaba Waghmare …. Petitioner.

Vs.

The Pune Municipal Corporation
Through the Executive Engineer …. Respondent.

Mr. Sanket Bora (through VC) i/b Mr. Gaurav D. Kakade, Advocates for the Petitioner.

CORAM : RAVINDRA V. GHUGE, ACJ. &
GAUTAM A. ANKHAD, J.

DATE : 18th August, 2026.

P.C. :

1. The Petitioner claims to be a lawful lessee and occupier of Building No.48-C situated at Madhavbag Sahakari Gruhrachana Sanstha Maryadit, Kothrud, Pune, under registered Lease Deeds dated 4th August, 1986 and 14th June 2003. The lease is a perpetual lease of 999 years and the Petitioner is in possession of this property since 1986.

2. The present Petition challenges the legality of the notice dated 18th June, 2026, received by the Petitioner on 15th July, 2026,

issued under Section 53(1)(a) of the Maharashtra Regional and Town Planning Act, 1966 ("MRTP Act"), and the consequential notices issued pursuant thereto. By the impugned notice, the Petitioner has been called upon to demolish the compound wall and other structures and to remove the alleged encroachment from the subject land.

3. The Petitioner submitted representations to the Executive Engineer on 17th July, 2026 and 28th July, 2026, objecting to the impugned notice. The Petitioner also sought copies of the inspection report, demarcation report and other documents relied upon by the Respondent-Corporation and requested that no demolition or coercive action be taken against the compound wall or the property until the dispute was considered. However apprehending demolition, the Petitioner has approached this Court seeking the following reliefs:

> *"A. Issue a writ of Certiorari or any other appropriate writ, order or direction quashing and setting aside the impugned notice dated 18.06.2026 and the consequential communications issued by the Respondent.*
>
> *B. Issue a writ of Mandamus or any other appropriate writ, order or direction directing the Respondent to decide the Petitioner's application dated 03.08.2026 submitted under the provisions of the Maharashtra Regional and Town Planning Act, 1966, in accordance with law after granting an opportunity of hearing.*

C. Declare that no coercive action shall be taken against the Petitioner's property pursuant to the impugned notices until the Petitioner's application dated 03.08.2026 is decided by the competent authority.

D. Direct the Respondent to furnish to the Petitioner copies of the inspection report, measurement report, survey records, demarcation report, panchnama and all other documents relied upon in issuing the impugned notices."

4. Mr. Bora, learned counsel appearing for the Petitioner, submits that the Petitioner has been in possession and enjoyment of the property, including the compound wall, entrance gate, garden and open area, since 1986. He further submits that Regular Civil Suit No. 1455 of 2016 is pending before the competent Civil Court in relation to a dispute concerning possession of the adjoining property. There are also other civil proceedings concerning the common access between Madhavbag Sahakari Gruhrachana Sanstha Maryadit and Greenfield Co-operative Housing Society. He further submits that certain persons attempted to trespass upon the Petitioner's property on 2nd June, 2026, resulting in registration of FIR No. 168 of 2026 at the instance of the Petitioner against one Vinayak Sakharam Vashivle and other unknown persons. It is submitted that the impugned notices have been issued in the backdrop of these disputes and ought to be stayed by this Court.

5. We have heard the learned counsel for the Petitioner at length. In view of the admitted position that, disputes concerning possession and boundary of the property are pending before the Civil Court, we granted a pass-over to the learned counsel to obtain instructions as to whether the Petitioner intended to pursue his remedies before the Civil Court. The learned counsel was instructed to press the present Petition on merits.

6. We then specifically called upon the learned counsel to explain why the Petition does not annex the sanctioned plans, the building permission or relevant documents in respect of the construction carried out in 1986. No explanation was forthcoming. Therefore, in the absence of the statutory documents, permissions and plans demonstrating that permission was granted in 1986 for the construction of the structures mentioned in the impugned notice, we cannot accept the Petitioner's contention that the construction is authorised or otherwise protected from action under the MRTP Act merely on the basis of the Petitioner's long-standing possession.

7. It is clear from the civil suit that there are subsisting disputes concerning possession and the boundaries of the adjoining properties. Such disputed questions, particularly as to the identity and

extent of the property upon which the alleged encroachment is situated, cannot be adjudicated in exercise of our extraordinary jurisdiction under Article 226 of the Constitution of India. The Petitioner's remedy lies before the competent Civil Court.

8. It is well settled law, as is held by the Hon'ble Supreme Court in ***Roshina T. vs. Abdul Azeez K.T. and Others, (2019) 2 SCC 329,*** that disputes relating to boundaries and possession of immovable properties cannot be adjudicated by a Writ Court. The pendency of the Petitioner's application for regularisation also does not confer upon this Court any basis to adjudicate disputed questions of boundary or to presume that the existing construction is authorised. Hence, **the Writ Petition No. 10508 of 2026 is dismissed**.

9. Nevertheless, the Petitioner is at liberty to approach the competent Civil Court for adjudication of his claims relating to possession and boundary, in accordance with law. If such proceedings are instituted, the Civil Court shall consider and decide the same on their own merits, uninfluenced by the observations made in this order.

BHARAT DASHARATH PANDIT

Digitally signed by BHARAT DASHARATH PANDIT
Date: 2026.08.19 15:40:56 +0530

[GAUTAM A. ANKHAD, J.] **[ACTING CHIEF JUSTICE]**