Ashwini

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

ASHWINI PRASAD NARHIRE

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Date: 2026.10.15 10:29:05 +0530

WRIT PETITION NO. 13396 OF 2026

Uday Mahadev Mhatre ...Petitioner
Versus
The City and Industrial Development Corporation (CIDCO) of Maharashtra & Ors. ...Respondents

...

Mr. Rahul Thakur for the Petitioner.

Adv. Priyansh Jain, a/w Adv. Akshay Naik, i/by Adv. Sagar Shetty for Respondent-CIDCO.

Mrs. Neha S. Bhide, GP, a/w Mrs. P. J. Gavhane, AGP for Respondent Nos.3 and 4.

...

CORAM : MAHESH CHANDRA TRIPATHI, CJ. &
ADVAIT M. SETHNA, J.

DATE : 14th OCTOBER, 2026.

P.C.:

1. We have heard the learned counsel for the parties.

2. This instant Writ Petition is preferred for the following the substantive reliefs:-

> *"a) This honourable court may be pleased to issue a writ, direction or any other order in the nature of Certiorari or any other appropriate writ, order or direction in the nature of Certiorari, quashing and setting aside the notice dated*

15.12.2025 issued under Section 53(1)(a) of the MRTP Act, bearing no. कमांक/सिडको/नि.अ.बां/न.मुं/2451 Annexed at Exhibit – D & the impugned order dated 27/7/2026 passed by the Respondent no.2 bearing reference No. कमांक/सिडको/नि.अ.बां/न.मुं/2451 annexed at Exhibit – I.

b) This Hon'ble Court may declare that the sand washing activity carried out by the Petitioner does not amount to "development" or "construction" under the MRTP Act;

c) This Hon'ble Court may restrain the Respondents from taking any coercive or demolition action pursuant to the impugned notice dated 15/12/2025 at Exhibit-D & impugned order passed under section 53(1) of the MRTP Act, dated 27/7/2026 annexed at Exhibit-I."

3. Mr. Rahul Thakur, learned Counsel for the Petitioner at the outset submits that the Respondent No.1 - CIDCO which claims to be a Planning Authority, has no jurisdiction to proceed under Section 53(1)(a) of the Maharashtra Regional and Town Planning Act, 1966 ("**MRTP Act**" for short).

4. Mr. Thakur contends that there is no construction on the subject land and the activity carried out by the Petitioner does not involve any structural or permanent development. According to him, such activity only relates to the sand washing machinery, installed on the subject land, being earmarked for agricultural purposes. Therefore, the Impugned Notice dated 15th December 2025 as well as the Impugned Order dated 27th July 2026 is perverse,

unsustainable and liable to be set aside.

5. Per contra, Mr. Priyansh Jain, learned Counsel for the Respondent No. 1 – CIDCO opposed the reliefs sought in the instant Petition and submits that the village in question i.e. Jasai Village falls under regulated area as per the Gazette Notification dated 20th March 1971 published by the Urban Development Public Health and Housing Department of the State of Maharashtra. Vide the said Notification and in exercise of the powers conferred by sub-section (1) of section 113 of the MRTP Act, the Government of Maharashtra designated several areas as the site for the proposed new town, which would be known by the name of "New Bombay" and the subject land/village in question i.e. Jasai Village is earmarked at Sr. No.25 therein. He therefore submits that there should be no quarrel that the subject land falls under the regulated area.

6. Mr. Jain would contend that the Respondent No.1-CIDCO is a competent Authority for ensuring that the development is carried out strictly in consonance with the plan approved by the said Authority. He submits that it is an admitted case of the Petitioner that no permission has ever been obtained from the prescribed Authority/Competent Authority for raising or doing any such activity/development on the subject land, earmarked for the planning department. In absence thereof, such

activity/development, as has been carried out by the Petitioner, is not permissible. The Competent Authority, therefore, has every right to proceed against such unauthorized development, in accordance with law.

7. Considering the factual situation as emerged before us, we have proceeded to examine the record. In view of the Gazette Notification dated 20th March 1971 *(supra)*, it cannot be disputed at this stage that the subject land/village in question does not fall within the regulated area of the planning authority. Respondent No.1-CIDCO is a Competent Authority to ensure that each and every development is carried out strictly in accordance and conformity with the plan approved by such authority and subsequently, duly endorsed by the State Government. In this context, the relevant extract of Section 43 of MRTP Act, is reproduced below for easy reference:

> *"**43. Restrictions on development of land.***
>
> *After the date on which the declaration of intention to prepare a Development Plan for any area is published in the Official Gazette [or after the date on which a notification specifying any undeveloped area as a notified area, or any area designated as a site for a new town, is published in the official Gazette,] [These words were inserted by Maharashtra 30 of 1972, Section 6.] no person shall institute or change the use of any land or carry out any development of land without*

the permission in writing of the Planning Authority."

8. Accordingly, in the absence of such permission obtained by the Petitioner from the Planning Authority, no such activity/unauthorized development is permissible. The Planning Authority has the power to direct the removal of such unauthorized development in terms of Section 53(1)(a) of the MRTP Act, which is reproduced below:

> "**53. Power to require removal of unauthorised development**
>
> (1) (a) Where any development of land has been carried out as indicated in clause (a) or (c) of sub-section (1) of section 52, the Planning Authority may, subject to the provisions of this section, serve on the owner, developer or occupier a prior notice of 24 hours requiring him to restore the land to conditions existing before the said development took place.".

9. Confronted with the above situation before us, learned counsel for the Petitioner fairly submits that the Petitioner is inclined to move an appropriate Application for sanction of the activity/development on the subject land, in accordance with law, as permissible, for such regulated area.

10. Considering such facts, equity and justice would be subserved in case the Petitioner moves an appropriate Application before the Competent Authority, for sanction of the activity/development on

the subject land within a period of two weeks from the date of uploading of this order.

11. We expect the Competent Authority to process such Application in accordance with law, expeditiously. Meanwhile, it is expected that the activity/development which is carried out by the Petitioner without due permission/approval of the Planning Authority shall be stopped forthwith, until proper permission is obtained by the Petitioner from the Planning Authority.

12. We clarify that we have not adverted to the merits of the matter.

13. With the aforesaid observation/directions, the Writ Petition stands Disposed Of.

[ADVAIT M. SETHNA, J.] **[CHIEF JUSTICE]**