PANCHAL

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

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Date: 2026.10.16 18:04:49 +0530

WRIT PETITION NO. 13486 OF 2026

Smt. Suhasini Madhukar Bhalerao
through her Power of Attorney holder
Mr. Vijay Yashwant Bhamburkar ...Petitioner
Versus
The Pune Municipal Corporation & Ors. ...Respondents

...

Mr. Shriram Kulkarni a/w Mr. Devesh Bamb, for the Petitioner.

Mr. Abhijit P. Kulkarni a/w Mr. Shreyas R. Zarkar, for Respondent Nos.1, 2 & 3-PMC.

Mrs. Neha S. Bhide, GP a/w Mr. Piyush Pande, "B" Panel & Mrs. P. J. Gavhane, AGP for the Respondent No.6-State.

...

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

DATE : 15th OCTOBER, 2026.

P.C.:

1. We have heard learned Counsel for the parties.

2. The instant Writ Petition has been filed, *inter-alia*, praying for the following substantive reliefs :-

> *"(a) Be pleased to direct the Respondent No. 1 to 3 to clear construction caused on original pathway leading to open space and restore pathway to original position.*
>
> *(b) Be pleased to direct the Respondent Pune Municipal Corporation to implement the judgment and order dated 23.04.2019 passed in Civil Writ Petition no. 2968 of 2004 and also order dated 06.08.2025 passed in Review*

Petition St. No. 3698 of 2020 passed by this Hon'ble Court and direct the Respondent Pune Municipal Corporation demolish the structure/construction and submit compliance report to this Hon'ble Court.

(c) Be pleased to direct the Respondent Pune Municipal Corporation to forthwith implement the notice dated 9/10/2025 issued u/s 258 of Bombay Municipal Corporation Act 1949 and Submit compliance report before this Hon'ble Court."

3. In view of the order that we propose to pass today, we are not inclined to issue notice to the Respondents or keep the matter pending for consideration.

4. At present, we find from the record that in the light of the judgment of the Single Bench of this Court dated 23rd April, 2019 passed in Civil Writ Petition No.2968 of 2004, the Pune Municipal Corporation has already proceeded to issue notice under Section 258 of the Maharashtra Municipal Corporation Act, 1949 (in short **"Act of 1949"**) against those who have encroached upon the common amenity (pathway).

5. Learned Counsel for the Petitioner therefore submits that in the light of the directions issued by the Single Bench of this Court, the Respondents have issued notice dated 9th October, 2025, but till date the same has not reached to a logical conclusion and as such, encroachments have not been removed and effectively the notice dated 9th October, 2025 has not been complied with.

6. Learned Counsel for the Petitioner vehemently contended that the Judgment dated 23rd April, 2019 of the Single Bench of this Court in Writ Petition No. 2968 of 2004 was challenged by Respondent No.4, i.e., Sudhakar Upasani before the Supreme Court in Special Leave to Appeal No. 15698 of 2019. Initially, an interim Order was accorded in the said proceeding. However, the Special Leave Petition came to be dismissed *vide* order dated 15th July, 2019, whereby the time granted for demolition of the construction, which was to expire on 23rd July, 2019, was extended by a further period of three months.

7. Learned Counsel for the Petitioner would further submit that a Review Petition (ST) No. 3698 of 2020 in Writ Petition No. 2968 of 2004 was preferred in respect of the Judgment dated 23rd April, 2019. The said Review Petition was dismissed vide order dated 6th August, 2025. Learned Counsel for the Petitioner would submit that three months' extension granted by the Supreme Court for carrying out demolition has already expired. Therefore, there is no impediment to the extent that the said Order of the Supreme

Court has attained finality. However, Respondent-Corporation has without any plausible reason, has failed to comply with the said Order of the Supreme Court.

8. Be that as it may. We find from the record that the Respondent-Corporation has already issued notice under Section 258 of the Act of 1949 against the persons who have encroached upon the common amenity (pathway), in the light of an observation made by the Supreme Court in its Order dated 15th July, 2019. Accordingly, we expect the same should be finalized expeditiously, preferably within a period of six weeks from the date of uploading of this Order. We further direct the Respondent-Corporation to examine, while taking the Notice dated 9th October, 2025, to its logical end, the grievance raised by the Petitioner with regard to the restoration of the common amenity (pathway).

9. With the aforesaid directions, Writ Petition is Disposed Of, without adverting on merits of the matter.

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