Ashwini

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

ASHWINI PRASAD NARHIRE
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Date: 2026.10.12 10:33:35 +0530

WRIT PETITION NO. 4501 OF 2026

Terrence Joseph Countinho ...Petitioner
Versus
State of Maharashtra & Ors. ...Respondents

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Ms. Neeta Karnik, Senior Advocate, a/w Adv. Rohan Sharma, i/by Adv. Piyush Todkar for the Petitioner.

Mrs. Neha S. Bhide, GP, a/w Mr. B.V. Samant, Addl. GP and Mr. S. P. Kamble, AGP for Respondent Nos.1, 12 and 13.

Adv. Narayan R. Bubna, a/w Adv. Aryanraj A. for Respondent No.2-Corporation.

Adv. Janki J. Sampat for Respondent No.10.

Mr. R. D. Soni, a/w Ms. Uma Sharma and Mr. Karl Vatcha, i/by Dharam & Co. for Respondent No.11.

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

DATE : 9th OCTOBER, 2026.

P.C.:

1. Heard learned counsel for the parties.

2. The instant Writ Petition is preferred, *inter alia*, for the following substantive reliefs:

> *"(a) be pleased to direct Respondent No.2 to 4 and its officers*

to take action against the unauthorised construction carried out by Respondent No.11 inside Petitioner's Gala No.4 & 5 situated in Respondent No.10 Society.

(b) be pleased to direct the Respondent No.5, 7 & 11 to restore the Gala No.4 &5 as per sanctioned plan of Respondent No.10 Society.

(c) be pleased to direct the Respondent No.2 & 3 to take action against concerned employees of Respondent No.2who have created Property Tax Bills in the name of Respondent No.11."

3. The Writ Petition is preferred for a direction to Respondent Nos.2 to 4 and its officers to take action against the unauthorised construction carried out by Respondent No.11 inside Gala Nos.B-4 and B-5 ("**said Galas**" for short) on the ground floor of a building, proposed to be constructed under the name of "Laxmi Narayan Industrial Estate" on land bearing Survey No.50, New Survey No.100, Hissa No.4 (Part), situated at Village Bhayandar, District Thane.

4. Ms. Neeta Karnik, Ld. Senior Counsel for the Petitioner submits that Petitioner had purchased the said Galas by entering into an Agreement dated 29th June 1982 with Respondent No.5. Subsequently, the Petitioner came to know that Respondent No.5

had entered into an agreement with Respondent No.6, in November 1994, wherein the said property was purportedly sold. She further submits that as the Respondent No.5 failed to fulfill his contractual obligations under the Agreement dated 29th June 1982 (supra), the Petitioner had instituted Special Civil Suit No.1337 of 1996 before the Court of Civil Judge Senior Division, Thane on 7th December 1996 for Specific Performance, Declaration, Injunction against Respondent Nos.5 and 6.

5. Ms. Karnik, submits that subsequently, trial Court proceedings were decreed in favour of Petitioner. Thereafter, the Respondent No.5 was directed to execute a Sale Deed in respect of subject property in favour of Petitioner. An Execution Application has also been preferred by the Petitioner under Order XXXIX Rule 1 and 2 read with Section 151 of the Code of Civil Procedure in Special Darkhast No.22 of 2006 seeking a temporary injunction against Respondent Nos.5 and 7 from transferring, alienating or creating third party rights/interests in the said Galas.

6. In this backdrop, Ms. Neeta Karnik would urge that *qua* the rights, title and claim of Petitioner, the same are settled by a competent Civil Court and in the execution proceeding (supra), directions were already issued to register and execute the Sale Deed and to hand over the possession of the subject property. She would

submit that, accordingly, a Complaint has been lodged before Respondent Nos.1-State and Respondent No.2-Corproation and the same should be considered and decided by such Respondents on merits.

7. Considering the above and in order to ascertain whether any such Complaint is pending for consideration before the Respondent-Corporation, we had adjourned the matter yesterday so as to enable the Ld. Counsel who represents the Respondent-Corporation to obtain proper instructions for the same. Today, he submits that in case the Complaint is pending consideration/adjudication, the same would be decided, certainly after giving opportunity of hearing to all the stakeholders in the matter.

8. Taking into account the factual situation and relief as prayed for, we find that the precise case of the Petitioner has been set up on the basis of certain rights which have already been created in favour of the Petitioner by orders passed by a competent Civil Court. In view thereof, such rights and/or title cannot be disputed at this stage.

9. Ms. Karnik further informs the Court that the Petitioner is 92 years old and prays that the Complaint may be directed to be decided and taken care of, as expeditiously as possible by the Respondent No.2-Corporation.

10. Considering the advanced age of Petitioner, we accordingly direct that the Complaint, if any, made by the Petitioner with respect to demolition of the alleged unauthorized construction on the said property, shall be considered and decided by the concerned Authority of Respondent No. 2 – Corporation, as expeditiously as possible, preferably within a period of three weeks from the date of uploading of this Order, certainly after giving sufficient opportunity of hearing to all the stakeholders including Respondent No.11.

11. Since we find that there are several contesting Respondents appearing in the present case, we also direct that if any grievance is raised by them, the concerned Authority of Respondent No. 2 – Corporation shall examine their submissions, at the time of taking a final decision on such Complaint.

12. All the contesting parties/stakeholders to appear before the concerned Authority of Respondent No. 2 - Corporation on **13th October 2026 at 11.00 AM**.

13. Accordingly, in terms of the above observations/directions, the Writ Petition is Disposed Of, without adverting to the merits of the matter.

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