

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 14342 OF 2024**

- | | | |
|--------|-----------------------------|-------|
| 1. | Jhalak Constructions |] |
| | Through their partners |] |
| |
Naresh Harumal Wadhwani |
] |
| | Occu:Business |] |
| | R/at: 17, Block No.C9, Dev |] |
| | Samaj Road, Ulhasnagar |] |
| | Thane 421 004. |] |
|
2. |
Sagar Mukesh Wadhwani |
] |
| | Occu:Business |] |
| | R/at: 17, Block No.C9 |] |
| | Dev Samaj Road, Ulhasnagar |] |
| | Thane -421004. |] |

... Petitioners

V/s.

- | | | |
|--------|-------------------------------------|-------|
| 1. | Ulhasnagar Municipal Corporation |] |
| | Through its Municipal Commissioner |] |
| | Ulhasnagar-3, Taluka-Kalyan |] |
| | District Thane – 421 003. |] |
|
2. |
The Town Planner |
] |
| | Ulhasnagar Municipal Corporation |] |
| | Town Planning Department |] |
| | First Floor, Municipal Corporation |] |
| | Centre, Ulhasnagar-3 |] |
| | Taluka:Kalyan,District-Thane-421004 |] |
|
3. |
State of Maharashtra |
] |
| | Through Urban Development |] |
| | Department, Mantralaya, Mumbai |] |
| | served through the office of the |] |
| | Government Pleader, Appellate Side |] |
| | Bombay High Court, Mumbai. |] |

... Respondents

**WITH
INTERIM APPLICATION NO. 568 OF 2025**

**IN
WRIT PETITION NO.14342 OF 2024**

Adv. Swapnil Dilip Patil	]	
Age : 39 years	]	
R/at : Nana Bhoir Niwas, 4/1	]	
opp. C-Block 617, Deepak Darbar	]	
Netaji Chowk, Ulhasnagar-421004.	]	... Applicant

In the matter between

Jhalak Constructions	]	
Through their partners	]	
1. Naresh Harumal Wadhwani	]	
Occu:Business	]	
R/at: 17, Block No.C9, Dev	]	
Samaj Road, Ulhasnagar	]	
Thane 421 004.	]	
2. Sagar Mukesh Wadhwani	]	
Occu:Business	]	
R/at: 17, Block No.C9	]	
Dev Samaj Road, Ulhasnagar	]	
Thane -421004.	]	
		... Petitioners

V/s.

1. Ulhasnagar Municipal Corporation	]	
Through its Municipal Commissioner	]	
Ulhasnagar-3, Taluka-Kalyan	]	
District Thane – 421 003.	]	
2. The Town Planner	]	
Ulhasnagar Municipal Corporation	]	
Town Planning Department	]	
First Floor, Municipal Corporation	]	
Centre, Ulhasnagar-3	]	
Taluka:Kalyan,District-Thane-421004	]	
3. State of Maharashtra	]	
Through Urban Development	]	

Department, Mantralaya, Mumbai]
served through the office of the]
Government Pleader, Appellate Side]
Bombay High Court, Mumbai.] ... Respondents

Mr. Girish Agrawal a/w Ms. Chitra Danekar, Mr. Karan Singh for the Petitioners.

Mr. Vijay D. Patil, Senior Advocate, i/by Mr. Yogesh Patil for the Respondent Nos.1 and 2.

Smt. Leena Patil "B" Panel counsel for the Respondent No.3-State.

Ms. Minal Chandnani a/w Mr. Rajesh Ranglani for the Intervener in IA/568/2025.

**CORAM : A. S. GADKARI AND
KAMAL KHATA, JJ.**

RESERVED ON : 24th April, 2026

PRONOUNCED ON : 29th April, 2026.

Judgment (Per : Kamal Khata, J) :-

1) This Petition takes an exception to the impugned Order dated 16th August 2024, passed by the Respondent No.1, the Ulhasnagar Municipal Corporation (UMC). By the said impugned Order, the UMC has revoked the development permission granted to the Petitioners on the subject property under the provisions of Section 51 of the Maharashtra Regional Town Planning Act, 1966 (MRTP Act) and called upon the Petitioners to remove the construction, failing which the Corporation will do the same.

2) Mr. Girish Agrawal, learned Advocate for the Petitioners submitted that, the Petitioners have purchased the subject property being Barrack No.2112, Room Nos. 1 to 4 and additional area Plot No. 345 (Part), bearing

CTS No. 27918 to 27922, 27925, 30678, Sheet No. 73 to 74, Ulhasnagar - 5 admeasuring 1004.5 sq. meters from Shri Chanderlal Parsram Jeswani, Shri Jaidev Parsram Jeswani and Smt. Ganga Inderlal Jeswani by executing a duly registered Deed of Conveyance dated 28th May 2019.

2.1) On 25th November, 2019, the Petitioners made an application for development of the subject property under Section 45 of the MRTP Act. A Public Notice was also displayed by the Respondent No.1-Corporation inviting objections of the public at large with a view to ascertain any objection of persons aggrieved by the said development. The Petitioners paid scrutiny fees as per Regulation 2.2 of the Unified Development Control and Promotion Regulations for Maharashtra, for scrutinizing documents, verifying the subject property as well as to ascertain whether the subject property is affected by any reservation or importantly whether the subject property can cause obstruction in the Development Plan of the Town Planning Authority.

2.2) Upon a scrutiny being carried out by the UMC by its letter dated 30th January, 2020, the Petitioners were directed to pay development charges to the tune of Rs 4,79,950/-. The Petitioners deposited the development charges as well as executed a Release Deed relinquishing an area admeasuring 345.52 sq. meters in favour of Respondent No.1-Corporation and registered it on 29th November, 2020. The said area was required for the proposed DP Road as per the Development Plan. On 3rd

December, 2020 the Petitioners were granted development permission with a sanctioned plan to construct building up to 7 floors. On 28th January, 2021 the Petitioners applied for Revised building permission. The same procedure was adopted and the Petitioners again deposited Scrutiny Fees for similar verification. The site was visited and measurement was carried out in presence of the Commissioner of the Corporation.

2.3) On 1st October, 2021 a report was prepared by the Junior Engineer Town Planner and Commissioner of Corporation, wherein it was recorded that, the subject property was unaffected by the 24-meter as well as 36-meter DP Road. By a Revised Development Permission dated 2nd November, 2021, the Petitioners were granted permission to construct up to 16 floors. A second Release Deed dated 8th December, 2020 was executed and registered whereby an additional area of 41.16 sq. meters was released since it was required for the DP Road as claimed by the Corporation. The project was registered with the Maharashtra Real Estate Regulatory Authority and a Registration Certificate dated 22nd December 2021 was granted under Section 5 r/w Rule 6(a) of the said Act/Rules. The project was registered by the name 'Jhalak Paradise' and was to be completed on or before 31st of December 2025. The Petitioners obtained the Plinth Level Certificate on 9th December, 2022 and presently the building is constructed up to 14 floors.

2.4) Mr. Agrawal, learned Advocate for the Petitioners strenuously

contends that, the Corporation issued Stop Work Notice dated 12th September, 2023 at the instance of a complaint made by an Advocate and another politically connected person. He submits that, the Stop Work Notice was issued without affording any hearing to the Petitioners. Aggrieved by the Stop Work Notice, the Petitioners preferred a Writ Petition before this Court. Pursuant to the Court's directions, while disposing of the Petition, a fresh Notice was issued by the Corporation on 3rd May, 2024 and the Petitioners were permitted to file their reply and heard on the same. He submitted that, despite the Orders of the Court, no Order was passed by the Respondent No.1-Corporation on the said show cause notice.

2.5) He submitted that, subsequently the Respondent No.1-Corporation issued another Show Cause Notice under Section 51 of the MRTP Act stating that the subject property was affected by the 36-meter as well as the 24-meter DP Road and further alleged that the permission was obtained by misleading them. The Corporation namely Respondent No.1 passed the impugned Order dated 16th August, 2024 whereby the development permission granted to the Petitioners was revoked under the provisions of Section 51 of the MRTP Act, 1966.

2.6) Learned Advocate Mr. Agrawal submitted that, the Petitioners have diligently followed all the procedures of the Corporation and have obtained the development permissions. They have also relinquished an area of 386.68 sq. meters from the subject property by executing and registering

two Release Deeds in favour of the Corporation. Pursuant to the permission granted to the Petitioners, the building construction is completed up to 14 floors which is 80% of the entire construction under the permission.

2.7) He submitted that, the Show Cause Notice has failed to set out all the grounds necessitating action against the Petitioners and consequently the said Show Cause Notice is rendered nugatory. In view of the above Mr. Agrawal submits that the entire action smacks of malafide and deserves to be set aside.

3) *Per Contra*, Mr. Vijay Patil, learned Senior Advocate appearing for Respondent Nos.1 and 2 submitted that, Mr. Lalit Khobragade, the Assistant Director, Town Planning, Ulhasnagar Municipal Corporation has filed an Affidavit dated 21st November, 2024. He invited our attention to paragraph 6 of the Affidavit which categorically states that, the Municipal Commissioner Shri Aziz Shaikh had taken note of the misconduct on the part of Shri Mule, who was responsible for granting permission to the Petitioners and relieved him from the post of the Town Planner by an Order dated 9th May 2024. The said decision was taken after the subject plot was inspected and a plan was prepared by super imposing the sanction development plan with the subject plot and the DP Roads at the actual site. This exercise revealed that, 80% of the subject plot was affected by the proposed DP Roads. Consequently, Mr. Mule could not have granted the permissions to the Petitioners.

3.1) Mr. Patil further submitted that, the Order dated 16th August, 2024 was passed after issuing a fresh Show Cause Notice to the Petitioners and after considering the reply as well as affording a hearing to the Petitioners. He therefore submitted that the Petitioners cannot contend that, the Petitioners were not heard. He submitted that, the Petitioners and their Architect had obtained permissions from the UMC by tendering incorrect material and plans thereby misleading the Corporation. Mr. Patil submitted that, the Petitioners who have played fraud on the Corporation are not entitled to any equitable relief. Equally the concerned Officer of the UMC who was responsible and failed to consider the documents before granting the permission deserved to be appropriately punished. He submitted that the action had already been taken against the concerned Officer in that regard. In that view of the matter, he submitted that, the Petition deserves to be dismissed with exemplary costs.

4) We have heard both Mr. Girish Agrawal, learned Advocate for the Petitioners, Mr. Patil, learned Advocate for Respondent Nos.1 and 2 as well as Ms. Chandnani, learned Advocate for the Intervener and have carefully perused all the documents on record.

5) We find due merit in the submissions of Mr. Patil. A party who has mislead the Authority by tendering incorrect documents with a view to mislead the Corporation cannot get advantage of his own wrong. It is settled law that, fraud vitiates all Orders. Therefore the permissions granted

to the Petitioners stand vitiated and are non-est in the eyes of law. A party attempting to play a fraud on the Authorities cannot be permitted to take advantage of his own wrong. The contention of Mr. Agrawal that, the Petitioners have constructed 80% of the building has no merit at all. His contention that, the Petitioners have expended over Rs. 17 crores on the said project also cannot be countenanced. The investment of a Developer or by flat purchasers of said property cannot be a ground for regularizing an illegality or irregularity.

6) The Supreme Court in *Rajendra Kumar Barjatya and Another v/s. UP Avas Evam Vikas Parishad and Others* reported in 2024 SCC OnLine SC 3767; has entrusted the responsibility on all Courts to take stern action against all illegalities and irregularities. In paragraph No.20, has held as under :-

“20. In the ultimate analysis, we are of the opinion that construction(s) put up in violation of or deviation from the building plan approved by the local authority and the constructions which are audaciously put up without any building planning approval, cannot be encouraged. Each and every construction must be made scrupulously following and strictly adhering to the Rules. In the event of any violation being brought to the notice of the Courts, it has to be curtailed with iron hands and any lenience afforded to them would amount to showing misplaced sympathy. Delay in directing rectification of

illegalities, administrative failure, regulatory inefficiency, cost of construction and investment, negligence and laxity on the part of the authorities concerned in performing their obligation(s) under the Act, cannot be used as a shield to defend action taken against the illegal/unauthorized constructions. That apart, the State Governments often seek to enrich themselves through the process of regularisation by condoning/ratifying the violations and illegalities. The State is unmindful that this gain is insignificant compared to the long-term damage it causes to the orderly urban development and irreversible adverse impact on the environment. Hence, regularization schemes must be brought out only in exceptional circumstances and as a onetime measure for residential houses after a detailed survey and considering the nature of land, fertility, usage, impact on the environment, availability and distribution of resources, proximity to water bodies/rivers and larger public interest. Unauthorised constructions, apart from posing a threat to the life of the occupants and the citizens living nearby, also have an effect on resources like electricity, ground water and access to roads, which are primarily designed to be made available in orderly development and authorized activities. Master plan or the zonal development cannot be just individual centric but also must be devised keeping in mind the larger interest of the public and the environment. Unless the administration is streamlined and the persons entrusted with the implementation of the act are held

accountable for their failure in performing statutory obligations, violations of this nature would go unchecked and become more rampant. If the officials are let scot-free, they will be emboldened and would continue to turn a nelson's eye to all the illegalities resulting in derailment of all planned projects and pollution, disorderly traffic, security risks, etc.”

6.1) The Hon'ble Supreme Court in case of *Kaniz Ahmed Vs. Sabuddin and Ors.*, reported in *2025 SCC OnLine SC 995*, in paragraph No.7 has held as under:

“7. Thus, the Courts must adopt a strict approach while dealing with cases of illegal construction and should not readily engage themselves in judicial regularisation of buildings erected without requisite permissions of the competent authority. The need for maintaining such a firm stance emanates not only from inviolable duty cast upon the Courts to uphold the rule of law, rather such judicial restraint gains more force in order to facilitate the well-being of all concerned. The law ought not to come to rescue of those who flout its rigours as allowing the same might result in flourishing the culture of impunity. Put otherwise, if the law were to protect the ones who endeavour to disregard it, the same would lead to undermine the deterrent effect of laws, which is the cornerstone of a just and orderly society.[See: Ashok Malhotra v. Municipal Corporation of Delhi, W.P. (c) No. 10233 of 2024 (Delhi High Court)]”

7) In the present case we find that, the Petitioners contended that, as

per the report dated 1st October, 2021 the subject property was unaffected by 24-meter as well as 36-meter DP Roads. Reliance was placed upon the report to submit that, the permissions were obtained based on this report. Diametrically opposite to the aforesaid contention the Petitioners contend that, the subject plot was affected by the DP Roads and consequently the Petitioners voluntarily released an area of 386.68 square meters in favour of the Corporation.

8) Prima facie it appears that the Petitioners have attempted to approbate and reprobate. It appears that, the Petitioners were all throughout aware that the subject property was affected by DP Roads on either side of the subject property. It further appears that, with the help of their Architect, they have presented misleading documents to the Corporation to obtain the development permissions. In that case, the Petitioners are not entitled to any sympathy or leniency. Such sympathy or leniency if afforded would be entirely misplaced. Therefore, although permissions were obtained from the UMC, they would, in our view, be null and void, having been procured by misrepresentation and by the submission of incorrect material and documents, rendering the entire structure illegal. The Supreme Court in unambiguous terms have called upon the Court to not get swayed away by misplaced sympathies and take stern action against persons like the Petitioners who attempt to play a fraud not only on the State, its Authorities but also the Courts.

9) The attempt to set aside the Show Cause Notice on the ground that all the grounds were not set out in the same for the Petitioners to appropriately deal with the same, is yet another attempt in our view to delay and defeat the inevitable result. Though this ground may be relevant, directing issuance of a fresh show cause notice and hearing will in no way change the result. As noted earlier, the Petitioners have obtained building permission by misrepresenting facts and documents before the UMC.

10) A plain reading of the Order would show that, no such ground was taken by the Petitioners before the concerned Authority. It clearly appears to be an afterthought. The Courts have consistently held that, a party coming with unclean hands deserves to be thrown out at the very first stage and does not deserve any relief either in equity or in law.

11) In the present case, we find that, the Petitioners have clearly mislead the Corporation and has obtained permissions fraudulently. It is evident that, even the concerned Officer/(s) of the UMC have failed in his duty to verify the documents before granting the permissions.

12) The Municipal Authorities are the guardians of the City and its planned development. The Municipal Commissioner heading these Corporations owe a duty to the citizens and the State for the planned development and consequently removal of all unauthorized or illegal constructions. The State owes the citizens, a strict, stern and appropriate action against all the erring or delinquent Officers who have polluted the

entire system. Their removal is imperative. The system has to be cleansed.

13) The illegality has been nipped in the bud. The Commissioner UMC, has taken appropriate action against the erring officer, particularly since the entire construction is illegal.

14) The Court must play its role in uprooting such illegalities. Following the principles of law laid down in *UP Avas Nigam* (supra) and *Kaniz Ahmed* (supra), we see no reason to accede to the request made by the Petitioners Advocate. The request is accordingly rejected.

15) The UMC shall take necessary action as per the Notice in accordance with law.

16) Petition is dismissed.

17) Having considered our view in the matter, Mr. Agrawal, learned Advocate for the Petitioners sought a stay for a period of four weeks to enable him to approach the Supreme Court to test the Order.

18) We find no reason to stay the operation and implementation of the Order.

19) Place the matter for compliance on 17th June, 2026.

20) All concerned to act on the authenticated copy of this Order.

21) In view of disposal of the Writ Petition, Interim Application No.568 of 2025 does not survive and is accordingly disposed off.

(KAMAL KHATA, J.)

(A.S. GADKARI, J.).