



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.8610 OF 2025

SALASAR UNIQUE REALTORS LLP,
a Limited Liability Partnership
Firm registered under the Limited
Liability Partnership Act, 2008 having
its office at Ground and First Floor,
Shree Vallabh, behind D'mart, 150 Feet
Road, Bhayandar (West),
Thane - 401 101.

... Petitioner

Versus

1. MIRA BHAYANDAR MUNICIPAL
CORPORATION
Indira Gandhi Bhawan, Chhatrapati
Shivaji Maharaj Marg, Wing-C, Uttan
Road, Burhani Nagar, Bhayandar (W),
Tal. & Dist. Thane, Pin - 401 101.
2. ASSISTANT DIRECTOR,
TOWN PLANNING,
Mira Bhayandar Municipal
Corporation, Indira Gandhi Bhawan,
Chhatrapati Shivaji Maharaj Marg,
Wing-C, Uttan Road, Burhani Nagar,
Bhayandar (W), Tal. & Dist. Thane,
Pin - 401 101.

.... Respondents

Mr. Virag Tulzapurkar, Senior Advocate a/w Adv. Nitesh Ranawat,
Adv. Akshit Dedhia (through VC), Adv. Dhanashree Humbarkar i/b.
Wadia Ghandy & Co., for the petitioner.
Adv. Mayuresh Lagu, for the respondent-MBMC.

**CORAM : M. S. KARNIK &
S. M. MODAK, JJ.**

DATE : 13th MARCH, 2026

JUDGMENT (PER M. S. KARNIK, J.) :

1. The jurisdiction of this Court under Article 226 of the Constitution of India has been invoked by the petitioner seeking a writ of mandamus directing the respondent No.1-Mira Bhayandar Municipal Corporation ("the Corporation", for short) to process and sanction the petitioner's application for planning permission dated 9th July 2024 in respect of the 'Larger Property' in accordance with law, in a time-bound manner without insisting on any No Objection Certificate ("NOC", for short) from any revenue authorities, including the Collector of Thane.

2. Briefly stated the facts are, the petitioner-Salasar Unique Realtors LLP are the owners of lands, inter alia, bearing Old Survey No.478 (part) and New Survey No.114/2 (part) of Village Bhayandar and admeasuring 6,967 square meters, and Old Survey No.481 (part) and New Survey No.113/4 (part) of Village Bhayandar, admeasuring 778 square meters situated at Village Bhayandar, collectively admeasuring 7,745 square meters, District Thane, now within the limits of Mira Bhayandar Municipal Corporation ("First Property", for short) under a duly registered Deed of Conveyance dated 13th October 2014 read with Deed of

Confirmation dated 28th December 2020.

3. The petitioner is also a developer appointed by the owner, RNA Corp Private Limited ("RNA"), in respect of lands bearing Old Survey No.478 (part) and New Survey No.114/1 (part) admeasuring 18,887 square meters and 114/2 (part) admeasuring 5,373 square meters of Village Bhayandar and Old Survey No.481 (part) and New Survey No.113/2 (part) admeasuring 16,900 square meters and 113/4 (part) admeasuring 21,172 square meters of Village Bhayandar, collectively admeasuring 62,322 square meters situated at Village Bhayandar, District Thane, now within the limits of Mira Bhayandar Municipal Corporation ("Second Property", for short) under duly registered Agreement dated 13th October 2014 read with Deed dated 5th February 2021.

4. The 'First Property' and the 'Second Property' are cumulatively referred to as ("the Larger Property" for short). The 'Larger Property' earlier formed a part of an even larger property bearing Survey No.478 and 481 admeasuring around 18.85 Acres of Village Bhayandar, District Thane ("Entire Property", for short).

5. In the year 1967, the Commissioner, Bombay Division, suo motu directed the Assistant Collector, Thane, to hold an inquiry under Section 20(2) of the Maharashtra Land Revenue Code, 1966 ("MLRC", for short) in order to determine whether a part of the Larger Property vested in the State of Maharashtra, or whether the same is a private property belonging to the petitioner's predecessor-in-title. The Commissioner, Konkan Division conducted the inquiry and confirmed by an order dated 31st January 1976 that no part of the Larger Property vested in the State of Maharashtra and that it was privately owned. The Tahsildar, Thane by order dated 27th February 1989 directed the Talathi to enter the name of the petitioner's predecessors in the record of rights for the Larger Property. The Larger Property was acquired by one Dhirajlal Shah, whose name came to be mutated in the revenue records pertaining to the Larger Property. A portion of the Entire Property admeasuring 4,180 square meters, forming part of Survey No.481 (part) came to be owned by one Sayyad Nazir Hussain and this was duly mutated in the revenue records.

6. Dhirajlal Shah got a scheme sanctioned under Section 20 of the Urban Land (Ceiling and Regulation) Act, 1976 ("ULC Act",

for short) on 11th May 1992 in respect of portion of the Larger Property admeasuring 38,210.32 square meters. The Sub Divisional Officer ("SDO"), Thane in 1993, suo motu took the said mutations in revision under Section 257 of the MLRC, citing that the State was the owner of the Larger Property. By order dated 1st November 1993 / 4th November 1993, the Collector of Thane directed that the revision proceedings be closed and the same were thus dropped by SDO Thane.

7. RNA acquired the Larger Property from legal heirs of the Dhirajlal Shah vide Consent Decree dated 3rd December 1993 passed by this Court in Suit No.3569 of 1993. RNA was thus reflected as the owner of the Larger Property in the revenue records.

8. Dhirajlal Shah and RNA secured sanctions from the Collector of Thane for conversion of the Larger Property to Non-Agricultural use by an order dated 3rd November 1993. The petitioner has paid Rs.41.54 lakhs towards NA tax since 2014. RNA had secured sanction of Layout Plan and Commencement Certificate in respect of the Larger Property from the Corporation on 30th March 2007.

9. The petitioner acquired ownership of the First Property from RNA vide registered Deed of Conveyance dated 13th October 2014 for Rs.18 Crores. The petitioner's name was duly recorded as the owner in the revenue records in respect of the First Property. On 13th October 2014 the petitioner acquired development rights as developer in respect of the Second Property from RNA for Rs.50 Crores vide registered Agreement for Development. The petitioner paid the Corporation about 12.30 crores (in aggregate) for planning permissions towards charges/fees.

10. In terms of the directions issued by the Collector of Thane in 2015, the SDO Thane took the said mutations in revision under Section 257 of the MLRC for a second time. The Collector of Thane on 18th December 2015 wrote to the Corporation, directing suspension of grant of permissions for construction on the Larger Property during the pendency of the said revision proceedings as a *pro tem* measure. The respondent No.2 - Assistant Director, Town Planning, on Corporation's behalf, passed a formal order on 23rd December 2015 abiding by the Collector's direction.

11. RNA challenged the revision proceedings initiated by SDO, Thane before the Divisional Commissioner, Konkan Division

in 2016. On 26th April 2016 the Divisional Commissioner, Konkan Division held the revision before the SDO to be not maintainable and quashed the proceedings. As a consequence of the order dated 26th April 2016, the SDO Thane passed order dated 1st June 2016 closing the said proceedings.

12. The SDO Thane filed a revision before the Revenue Minister. The Revenue Minister by order dated 15th March 2021 terminated the said revision proceedings. The reasons for the termination are adverted to later in this order.

13. Pursuant to the closure by the Hon'ble Revenue Minister of the proceedings filed by the SDO, Asmita India Limited, the developer in respect of that portion of the property owned by Sayyad Nazir Hussain, called upon the Office of the Collector of Thane to formally discontinue or revoke the letter dated 18th December 2015. The Office of the Collector of Thane on 19th April 2024 wrote to the Corporation, clarifying that the Corporation was at liberty to decide on the applications for planning permissions as per law.

14. The petitioner applied for planning permission for the proposed construction on the Larger Property on 9th July 2024.

The Corporation wrote to the respondent No.2 on 9th September 2024 requesting recall and/or revocation of the direction for suspension of construction vide letter dated 18th December 2015 during pendency of revision proceedings before the Hon'ble Revenue Minister. By the impugned communication dated 3rd February 2025 the Corporation refused to process the petitioner's application on the ground that the Collector of Thane had not responded to its letter dated 9th September 2024.

15. Shri Tulzapurkar, learned Senior Advocate for the petitioner submitted that it is an undisputed position that the petitioner is the owner of the First Property and the developer of the Second Property. The petitioner's rights have been created under duly registered documents of title and the fact that the petitioner and its predecessors have always been treated as owners of the Larger Property is apparent from the various acts and permissions of the ULC authorities, Collector of Thane (Non-agricultural conversion), respondent No.1/respondent No.2 (sanctioned Layout Plans and Commencement Certificates), Revenue Authorities (mutations). It is further submitted that the State of Maharashtra has consistently lost in its bid to claim the

Larger Property three times, viz. 1976, 1993 and 2016. There is no subsisting *lis* or proceeding on title. Learned Senior Advocate further submitted that respondent No.1's Law Officer has clearly opined that the limited, *pro tem* direction for suspension of grant of planning permission vide Collector's letter dated 18th February 2025 came to end upon the termination of the proceedings on 26th April 2016 and thus, there is no question of seeking any No Objection/consent from the Collector and in any event, the Collector of Thane has effectively clarified that it has no objection vide letter dated 19th April 2024 in Asmita's case. It is also submitted that the names of the petitioner in respect of the First Property and RNA in respect of the Second Property have been duly entered as owners/holders in the revenue records, and thus, the legal threshold for grant of planning permission in favour of the petitioner has been met. Further, it is submitted that the very basis of the impugned letter dated 3rd February 2025 is contrary to and *de hors* the provisions of the Maharashtra Regional and Town Planning Act ("MRTP Act", for short), as it completely ignores the jurisdictional limits of respondent No.1/respondent No.2 as the planning authority. Learned Senior Advocate submitted that the

planning authority is not entitled to delve into the questions of title and cannot insist upon any no objection from any other authorities that have no bearing on the question of grant of planning permission, and thus the Collector of Thane as a revenue officer under MLRC has no jurisdiction to withhold the grant of planning permission under the MRTP Act. It is also submitted that refusal of planning permission for such extraneous reasons tantamount to deprivation of the petitioner's constitutional right to property enshrined under Article 300A of the Constitution of India.

16. Learned Senior Advocate relied upon the following decisions in support of his submissions :-

(i) Sneha Construction through its proprietor Nandu Antram Rajput vs. Pune Municipal Corporation through Chief Municipal Commissioner and Ors.¹ [paragraphs 11-12].

(ii) Nadeem Abdul Sattar Lakdawala vs. The Municipal Corporation of Greater Mumbai and Ors.² [paragraphs 5-6].

(iii) Shree Sai Reality vs. State of Maharashtra and Ors.³ [paragraphs 15 and 18].

17. Shri Lagu, learned counsel for the Corporation while

1 Writ Petition No.7173 of 2013 decided on 12.12.2013 of Bombay High Court.

2 Writ Petition (L) No.1211 of 2019 decided on 12.06.2019 of Bombay High Court.

3 2019 SCC OnLine Bom 1421

vehemently opposing the Writ Petition invited our attention to the order passed by the Hon'ble Revenue Minister. It is submitted by Shri Lagu that the Hon'ble Revenue Minister has not decided the Revision Application on merits but terminated the proceedings in view of the intervention made by the Resolution Professional who was appointed by the National Company Law Tribunal ("NCLT", for short), Mumbai under the provisions of Section 22 of the Insolvency and Bankruptcy Code, 2016 ("IBC", for short) and the Rules made thereunder to conduct the corporate resolution process in the Petition under Section 7 of the IBC passed by the NCLT vide order dated 26th November 2019. It is submitted that RNA is the corporate debtor. On account of default in repayment of debt etc., committed by the corporate debtor, more specifically mentioned in the Petition before the NCLT and in view of the various provisions of the IBC, considering the law relied upon by the parties, the Revision Application was closed by the Hon'ble Revenue Minister. Thus, according to him, the Revision Application was not decided on merits in view of the provisions of the IBC.

18. We have heard learned counsel for the parties. We have perused the impugned order and the materials on record.

19. The sole ground for refusal of the application seeking the grant of planning permission is the letter dated 18th December 2015 of the Collector Thane. The Collector directed the Corporation to stop issuance of further planning permissions during the pendency of the revision proceedings under Section 257 of the MLRC. The aforesaid revision petition came to be finally decided in favour of the petitioner's predecessors and against the Collector. The Divisional Commissioner, Konkan Division by the order dated 26th April 2016 held the revision proceedings initiated by the SDO as not maintainable and quashed the proceedings. This was decided in favour of RNA i.e. the petitioner's predecessors. As the narration of the facts would reveal, on several occasions, suo motu inquiry was ordered in respect of the said land under the provisions of the MLRC to determine whether a part of the Larger Property vested in the State of Maharashtra, or whether the same is a private property belonging to the petitioner's predecessors-in-title.

20. The Commissioner, Konkan Division had, as far back as on 31st January 1976, conducted the inquiry and confirmed that no part of the Larger Property vested in the State of Maharashtra and

that it was privately owned. Again, the SDO Thane suo motu took the said mutations in revision under Section 257 of the MLRC in 1993 citing the State was the owner of the Larger Property. The Collector of Thane directed the said revision proceedings to be closed and the same were dropped by the SDO Thane on 4th November 1993. The Collector of Thane again directed the SDO in 2015 to revise the mutations. During the pendency of the revision proceedings before the SDO, the Collector of Thane directed suspension of grant of permissions for construction on the Larger Property by order dated 18th December 2015. The Divisional Commissioner by order dated 26th April 2016 held the revision to be not maintainable and quashed the revision proceedings initiated by the SDO. Thus, by virtue of the order dated 26th April 2016, the effect of the order dated 18th December 2015 passed by the Collector of Thane directing the Corporation for suspension of the grant of permissions for construction on the Larger Property during the pendency of the said revision proceedings came to an end. It is pertinent to note that the Hon'ble Revenue Minister terminated the proceedings in view of the provisions of the IBC.

21. The interim directions were passed by the Tahsildar on 18th December 2015 as a result of which the application for permission for construction was not considered. No doubt the proceedings were terminated before the Hon'ble Revenue Minister as a result of the intervention by the Resolution Professional upon bringing the relevant provisions of the IBC to the notice of the Hon'ble Revenue Minister.

22. However, it is apparent that the impugned order passed by the Corporation was in view of the *pro tem* measure proposed by the Collector vide communication dated 18th December 2015 which became inconsequential and lost its force as a result of the Divisional Commissioner's order dated 26th April 2016, which was in favour of the petitioner. The letter dated 18th December 2015 was the sole ground for suspending the application requesting the planning permission. Once the *pro tem* measure comes to an end by virtue of the Divisional Commissioner, Konkan Division's order, and in view of the subsequent order passed by the Hon'ble Revenue Minister, the very foundation of the impugned order no longer survives. That the proceedings came to an end before the Hon'ble Revenue Minister on the ground of declaration of

moratorium, is no ground to deny relief to the petitioner.

23. That the Hon'ble Revenue Minister terminated the revision on the ground that the moratorium was declared on the commencement of the insolvency in 2019 is hardly of any consequence so far as the action impugned in this Petition is concerned. The impugned order will have to be tested on the ground on which it is passed. Once the ground mentioned in the impugned order does not subsist, the impugned order has to be set aside.

24. The impugned order therefore is quashed and set aside. The Corporation is directed to process and sanction the petitioner's application for planning permission dated 9th July 2024 in respect of the Larger Property in accordance with law without insisting on any NOC from the revenue authorities including the Collector of Thane expeditiously.

25. In the light of the submissions of Shri Lagu, it is for the Corporation to consider the effect of the appointment of the Resolution Professional on the application for planning permission when the same is processed on its own merits and in accordance with law.

26. The Writ Petition is allowed in the aforesaid terms.
No order as to costs.

(S. M. MODAK, J.)

(M. S. KARNIK, J.)