

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1736 OF 2026

Mr Tukaram Bhimaji TikonePetitioner

Versus

The Municipal Commissioner & Ors.Respondents

Mr. Ramchandra N. Kachave, Advocate for the Petitioner.

Ms. Chaitrali Deshmukh, Advocate for Respondent Nos.1 to 3.

CORAM : RAVINDRA V. GHUGE &
ABHAY J. MANTRI, JJ.

DATE : 6th FEBRUARY, 2026

P.C. :-

1. The Petitioner claims to be an Ex-serviceman, and was a member of the Indian Army in 1974. He is aggrieved by the impugned order dated 23rd January 2026, by which, he has been called upon to demolish the structure, which he has erected illegally, without getting the plans approved, and without the prior permission of the Competent Authority.

2. The Petitioner had approached this Court in Writ Petition No.10579 of 2025. This Court heard the learned Advocate for the Petitioner and passed the following order on 5th August, 2025 :

“1 This petition under Article 226 of the Constitution of India, is filed praying for following substantial relief :

“a) this Hon'ble Court be pleased to call for record and proceeding concerning the impugned order dated 11/07/2025 (Exhibit- A), from the file of the Respondent No. 2 and after considering the legality, validity and propriety thereof, this Hon'ble Court may kindly be pleased to quash and set aside the same;”

2 We had heard the learned counsel for the parties in the morning session, when we have passed over the proceedings to be taken up before we rise for the lunch recess, so as to enable the Municipal Corporation to inform the court of the instructions, which would be obtained from the concerned officials of the Municipal Corporation on the impugned order. Learned counsel for Municipal Corporation on instructions submits that the impugned order dated 11th July 2025 Exhibit-A (Page 26) is being unconditionally withdrawn. She also makes a statement that the officers would now de-seal the premises as informed to the Petitioner under the communication dated 31st July 2025. Let this be undertaken forthwith.

3 All the consequential communications in pursuance of the impugned order dated 11th July 2025 are also been withdrawn. We accept the statement as made on behalf of the Municipal Corporation. In this view of the matter, further adjudication of the petition is not called for.

4 However keeping open all contentions of the parties, in the event, the parties are required to resort any further proceedings, we also observe that henceforth, the Municipal Corporation, if at all, shall take steps in accordance with law and more particularly considering that the Petitioner is an Ex-serviceman, who was formerly serving with the Indian Army and the plot of land was allotted to him much prior to the Municipal Corporation being constituted, i.e., when it was under the Grampanchayat, and on which he had been constructed a house. Whichever actions, which are sought to be taken, the case of the Petitioner on all aspects shall be duly considered and in accordance with law.

5 In the event, any future complaint is received from any third party, copy of such complaint shall be provided in the event any show cause notice is proposed to be issued to the Petitioner, failing which, no action can be resorted by following any arbitrary proceedings.

6 With these observations, we dispose of the petition considering the fair stand taken on behalf of the Municipal Corporation. We do not delve on the nature of the order and the role of the concerned officers in passing the impugned order.

7 The communication dated 5th August 2025, addressed by

Smt. Sonal Kale, Assistant Commissioner, Thane Municipal Corporation, who has passed the impugned order, addressed to the Learned Counsel for the Municipal Corporation, Ms. Chaitrali Deshmukh, is taken on record and marked "X" for identification.

8 *Disposed of. No costs."*

3. We find from the Petition paper-book that the impugned order, which is a well-reasoned order running into five pages, is in the light of the above order passed by this Court. Adequate opportunity of hearing was given to the Petitioner. The Petitioner could not prove that he had any approved plans for constructing two shops on a land, which was allocated to him by the Gram Panchayat for the reason that he was an Ex-army personnel. The land admeasuring 1,700 square feet bearing Survey No.285, situated at Mouje Kolshet, Patlipada, Ghodbandar Road, Thane, was allocated to him on 10th February, 1974.

4. Since the Petitioner constructed two shops in the plot allotted to him which was only to be used for his residence, the Municipal Corporation, Thane, initiated proceedings against the Petitioner. He preferred Regular Civil Suit No.430 of 2004 against a Social Worker, in view of the dispute between the two. By a Judgment and Decree dated 10th December, 2010, the trial Court concluded that the Petitioner-Plaintiff was the owner of the Suit

property, the Defendant had encroached upon the Suit property, and a perpetual injunction was granted. However, the trial Court recorded that the Petitioner was in possession of the plot land bearing Survey No. 285, and was not in possession of the two shops of the Defendant, as shown in the rough sketch.

5. The Petitioner approached this Court in Writ Petition No.12080 of 2018, alleging that the Defendant in the Suit was again constructing two shops. The Corporation made a statement before this Court on 21st February, 2025, recording that the encroachment was removed and the shops constructed by the Defendant were demolished. The Petition was disposed off.

6. The impugned order now clearly indicates that after the encroached portion of the two shops constructed by the Defendant, namely, Samadhan Pandharinath Tayde, was demolished, the Petitioner himself constructed two shops. He is using the two shops for commercial purposes. He also constructed a second floor with RCC material without getting the construction plans approved, and without seeking prior approval and permission for construction. The impugned order also records that the Petitioner had earlier constructed two shops, which were demolished. After the

demolition, he has once again reconstructed the same structure without prior permission and approval. The Petitioner has been granted seven days' time to remove the said structure on his own.

7. We are surprised that the Petitioner, who claims to be an Ex-serviceman, has conducted himself in this fashion. Much was expected from him. There was no impediment for him to tender construction plans, seek approval and permission for construction. He was granted permission only to construct a residence.

8. In view of the above, we find that it would be inappropriate to grant any protection to the Petitioner in the facts and circumstances recorded above.

9. In view of the above, this **Writ Petition is dismissed.**

(ABHAY J. MANTRI, J.)

(RAVINDRA V. GHUGE, J.)