

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

WRIT PETITION NO. 5599 OF 2026

Vijaylaxmi Santosh Singh And Ors ...Petitioners

Versus

SANTOSH
SUBHASH
KULKARNI

Bhiwandi Nizampur City Municipal
Corporation Thr. Its Commissioner And Ors ...Respondents

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Mr. Abhijeet Kandarkar, for the Petitioners.

CORAM: N. J. JAMADAR, J.

DATED: 27th APRIL, 2026

PC:-

1. Heard the learned Counsel for the petitioners.
2. The challenge in this petition is to a judgment and order dated 2nd April, 2026 passed by the learned District Court, Bhiwandi, in Misc. Civil Appeal No.4/2026, whereby the learned District Judge was persuaded to dismiss the appeal preferred by the petitioners against an order of rejection of an application for temporary injunction (Exhibit-5) in RCS/87/2024.
3. The learned Counsel for the petitioners submitted that some of the petitioners, were not served with the notices issued by the Municipal Corporation commanding the removal of the illegal construction. Notices were given to the erstwhile owners of the premises. Therefore, the learned District Judge ought to

have granted interim protection to the petitioners till the final disposal of the suit.

4. The learned District Judge has recorded in clear and explicit terms that the construction has been erected without the permission of the Planning Authority. The erstwhile owners Arvind Taware and others had instituted RCS/156/2014 in respect of the very same property. No relief was granted in the said suit. Even WP/2305/2019 filed by those persons also came to be dismissed. There is not an iota of material to indicate that the construction has been erected with the permission of the Municipal Corporation. The construction is completely illegal and unauthorized.

5. In the aforesaid view of the matter, the Courts below have rightly exercised their jurisdiction in declining to grant interim relief. There is no *prima facie* case in favour of the petitioners. A profitable reference can be made to a recent decision of the Supreme Court in the case of ***Kaniz Ahmed vs. Sabuddin and others¹***, wherein the following terse observations were made by the Supreme Court;

“6. The learned counsel appearing for the petitioner would submit that her client be given one chance to pray for regularisation of the unauthorised construction. We do not find any merit in such submission. A person who has no

1 2025 SCC Online SC 995.

regards for the law cannot be permitted to pray for regularisation after putting up unauthorised construction of two floors. This has something to do with the rule of law. Unauthorised construction has to be demolished. There is no way out. Judicial discretion would be guided by expediency. Courts are not free from statutory fetters. Justice is to be rendered in accordance with law. We are at pains to observe that the aforesaid aspect has not been kept in mind by many State Governments while enacting Regularisation of Unauthorized Development Act based on payment of impact fees.

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)*].

6. The aforesaid being the position in law in regard to the tolerance to unauthorised construction, this Court does not find any perversity in the exercise of the discretion by the courts below.

7. The petition, thus, stands dismissed.

[N. J. JAMADAR, J.]