

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 4299 OF 2026

WITH

WRIT PETITION NO. 10993 OF 2025

Nusrat Aziz Bobde

..

Petitioner

V/S.

The State Of Maharashtra

..

Respondents

Throu. Its Principal Sec. Urban

Development Dept And Ors

WITH

WRIT PETITION NO. 10994 OF 2025

Mr. Atharva Dandekar i/by Gautam Jain, for petitioner in WP/10993/2025 and 10994/2025.

Mr. N.R. Bubna a/w Pooja Malik, for respondent No. 4/Municipal Corporation.

Ms. P.J. Gavhane, AGP, for Respondent/State.

**CORAM : MANISH PITALE &
SHREERAM V. SHIRSAT, JJ.**

DATE : 17TH JUNE 2026.

PC:

1. The petitioner is constrained to move this application in peculiar circumstances.

2. It is an admitted position that in this very writ petition bearing Writ Petition No. 10993 of 2025, a division bench of this Court (Coram: G.S. Kulkarni and Manjusha Deshpande, JJ) had passed an order dated 21/05/2025 specifically directing the respondent- Municipal Corporation not to take any coercive action against the petitioners.

3. The principal grievance raised in the Writ petition is that the respondent - Municipal Corporation cannot force the petitioner to accept TDR /FSI as compensation for the acquisition of the property of the petitioners for the purpose of road widening.

4. As per the full bench judgment of this Court in the case of '**Shree Vinayak Builders and Developers Vs. State of Maharashtra**' (2022 SCC online Bom 1562) and further judgments rendered by various Division Benches, it is clear that compensation in the form of TDR/FSI, instead of monetary compensation cannot be forced upon an owner.

5. The petition is pending consideration, wherein the respondent-corporation has already filed its reply affidavit. The petition would be taken up for consideration on its own merits.

6. But, in the interregnum the respondent-Municipal Corporation chose to issue notice to the petitioner alleging unauthorised construction in the subject property. The petitioner responded but claimed that the entire set of documents was not available at the relevant time and hence sought further time.

7. Learned counsel for the petitioner informs this Court that necessary applications were made to procure documents. But, by an order recently issued on 09/06/2026, the respondent-corporation has gone ahead to direct the removal of the unauthorised construction, threatening that if the same is not done within a period of seven days, the corporation through its contractor would proceed to take action of demolition.

8. The least that was expected from the respondent-Municipal corporation was to have apprised this Court about its proposed action for the removal of unauthorised construction. There can be no doubt that

the respondent-Municipal corporation would be well within its powers to proceed against unauthorised construction, but in the face of the interim order operating since 21/08/2025, the respondent-corporation, before passing its order, should have approached this Court seeking leave to take action in accordance with law.

9. Prima facie, this Court has gathered an impression that the respondent-Municipal Corporation is trying to play a fast one on this Court, which cannot be countenanced.

10. In view of the above, the application is disposed of by directing that in the light of the interim order dated 21/08/2025 passed by this Court in the Writ Petition, the respondent-corporation shall not act upon the said order dated 09/06/2026 till the disposal of Writ Petition.

11. The Writ Petition is fixed for hearing/disposal on 28th July 2026, 'High on Board'

12. The interim order dated 21/08/2025 shall continue to operate till then.

13. Needless to say, this Court has not made any observations on the merits of the order dated 09/06/2026. At the same time, the petitioner is at liberty to challenge the said order by way of independent challenge, in accordance with law.

WRIT PETITION NO. 10994 OF 2025

1. List for further consideration / hearing on 20th July 2026, High on Board. To be taken up with Writ Petition No. 10993 of 2025.

(SHREERAM V. SHIRSAT, J.)

(MANISH PITALE, J.)