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JAYANT VISHWANATH SALUNKE
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 3518 OF 2025

Ashwin Kantilal Joshi } Petitioner
Versus
State of Maharashtra & Ors. } Respondents

Mr. Dhananjay Singh with Mr. Sumit Vishwakarma, Advocates for Petitioner.

Mr. Suraj Gupte, AGP for Respondent Nos. 1 & 4 (State).

Ms. Sheetal Metakari i/b. Ms. Komal Punjabi, Advocates for Respondent Nos. 2 & 3 (BMC).

Ms. Sayali Apte i/b. Mr. P. G. Lad, Advocates for Respondent-MHADA.

CORAM : MAHESH CHANDRA TRIPATHI, CJ. &
ADVAIT M. SETHNA, J.

DATE : 14th OCTOBER, 2026

P.C.:

1. By the instant Writ Petition, the Petitioner, *inter alia*, seeks for the following substantive reliefs:-

> *"a) That this Hon'ble Court be pleased to issue a Writ of Certiorari or any other Writ, Order or Direction in the nature of Certiorari under Article 226 of the Constitution of India thereby directing the Respondents and/or any of them to allot to the Petitioner Permanent Alternate Accommodation having size and dimension as more particularly recorded in the Exhibit "A" the copy of the Allotment Letter dated 21.07.2000 bearing no. WOR/S/9319/AEM issued by Respondent No. 3 at the appropriate location around the vicinity or in the Municipal market which should be suitable for a retail business;*
>
> *OR IN THE ALTERNATE*
>
> *b) That this Hon'ble Court be pleased to issue a Writ of Certiorari or any other Writ, Order or Direction in the nature of Certiorari under*

Article 226 of the Constitution of India thereby directing the Respondents and/or any of them to pay to the Petitioner a monetary consideration of 200% of the market value as per ready reckoner in lieu of the writ premises as more particularly described in the Exhibit-"A" the copy of the Allotment Letter dated 21.07.2000 bearing no WOR/S/9319/AEM issued by Respondent No. 3;

c) That this Hon'ble Court be pleased to issue a Writ of Certiorari or any other Writ, Order or Direction in the nature of Certiorari under Article 226 of the Constitution of India thereby awarding adequate monetary compensation/damages to be paid by the Respondents and/or any of them to the Petitioner for huge monetary / financial loss of business coupled with mental distress, agony and harassment over the period of last 24 years in terms of such amount as this Hon'ble Court may deem fit and proper,"

2. It is submitted by learned Counsel for the Petitioner that in the year 1999, the Respondent-Corporation has undertaken road widening project of Marve Charkop Link Road at Kandivali (West) Mumbai. The Respondent-Corporation had prepared a list of 91 structures which were affected due to such road widening project and accommodated 34 of them on the Municipal Premises. The Petitioner, being an eligible member, received an allotment letter dated 21st July 2000. When the Petitioner visited the allotted premises, he noticed an encroachment upon the same. The Petitioner, therefore, requested the Respondent-Corporation to allot an alternate parcel of land. However, until date, the Petitioner has not received any alternate accommodation. The Petitioner has, therefore, approached this Court under Article 226 of the Constitution of India seeking the aforequoted reliefs.

3. Learned Counsel appearing on behalf of the Respondent-Corporation, while opposing the instant Writ Petition draws our attention to the Affidavit-In-Reply filed on behalf of the Respondent-Corporation and submitted that from the records and correspondence available with the Respondent-Corporation, it appears that an alternative site on vacant land belonging to the Government of Maharashtra was made available to the concerned stall holders, including the Petitioner. However, the concerned stall holders did not take possession of the said land within the stipulated period. It is further submitted that the encroachment on the said land was removed subsequently by the Competent Authority of the Respondent-Corporation.

4. In the instant matter, what we find is that despite granting reasonable opportunity, the Petitioner could not produce the alleged original allotment letter. On perusal of the record, it also appears that the proceedings raise disputed questions of fact regarding the claims/counter claims of parties, which cannot be delved into by the Court exercising jurisdiction under Article 226 of the Constitution of India.

5. According to the Petitioner, the alternate accommodation was granted in the year 2000. However, it is evident that the Petitioner has approached this Court belatedly after about 26 years in the

year 2026. There is no convincing explanation coming forth, for such inordinate delay and laches.

6. For the above reasons, we are not inclined to entertain this Petition. However, taking an overall view of the matter, we grant liberty to the Petitioner to avail such appropriate remedy as available in law.

7. The Petition is Disposed Of in the above terms, without adverting to the merits of the matter.

[ADVAIT M. SETHNA, J.] **[CHIEF JUSTICE]**