MAYUR KONDIRAM ADANE
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 4051 OF 2026

Hiramani Shaligram Tripathi, Through
His Power Of Attorney Holder Kunal
Hiramani Tripathi ...Petitioner

Versus

State Of Maharashtra Through
The Government Pleader & Ors. ...Respondents

AND

WRIT PETITION NO. 4068 OF 2026

Navin Mulchand Dedhia ...Petitioner

Versus

State Of Maharashtra(thru GP Original Side BHC) ...Respondents

...

Adv. Aayesha Thakkar, a/w Adv. Anjali C. a/w Adv. Priyanshu Doshi, i/b Makwana & Associates, for the Petitioners.

Adv. Varsha Sawant, AGP, for the Respondent No.1-State in WP/4051/2026.

Adv. Rakesh H. Pathak, AGP, for the Respondent No. 1 – State in WP/4068/2026.

Adv. K.H. Mastakar, for the Respondent Nos.2 and 3.

Adv. K.C. Pandey, i/b Tanvir Shaikh, for the Respondents.

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

DATE : 1st OCTOBER, 2026.

P.C.:

1. The instant Writ Petition No.4051 of 2026, *inter alia*, is filed for the following substantive reliefs :-

> *b. this Hon'ble Court be pleased to quash and set aside the Show Cause Notice dated 16th May, 2023 at Exhibit D under Section 351(1A) of the Mumbai Municipal Corporation Act, 1888 and the Speaking Order dated 2nd September, 2023 at Exhibit G and any and all other notices issued in respect of the said Shop being Shop No.4, "Shiv Niwas", Rajawadi Naka, M.G.Road, Ghatkopar (East), Mumbai – 400 077;*
>
> *c. that this Hon'ble Court be pleased to stay the effect, operation, implementation and execution of Show Cause Notice dated 16th May 2023 at Exhibit D under Section 351(1A) of the Mumbai Municipal Corporation Act, 1888 and the Speaking Order dated 2nd September, 2023 at Exhibit G and any and all other notices issued in respect of the said Shop being Shop No.4, "Shiv Niwas", Rajawadi Naka, M.G. Road, Ghatkopar (East), Mumbai – 400 077 until the final hearing of the R.A.E. & R Suit bearing no.1535/5107 of 1984 filed by the original landlord which is now being prosecuted by the Respondent Nos. 3 to 6.*

2. Similar reliefs are sought in Writ Petition No. 4068 of 2026. Accordingly parties agree that the captioned Petitions be Disposed of by a common order.

3. At the outset, it is noted that no formal Notice is required to be issued to the Respondent - Corporation.

4. Ms. Varsha Sawant, learned AGP waives service of notice on behalf of Respondent No. 1 - State in Writ Petition No. 4051 of 2026. Mr. Rakesh H. Pathak, learned AGP, waives service of notice on behalf of Respondent No. 1 – State in Writ Petition No. 4068 of

2026. Mr. K.H. Mastakar, learned counsel, waives service of notice on behalf of Respondent Nos. 2 and 3. Mr. K.C. Pandey, learned counsel, waives service of notice on behalf of Respondents.

5. In the instant proceedings, the Show Cause Notice dated 16th May 2023 issued under Section 351(1A) of the Mumbai Municipal Corporation Act, 1888, along with the Speaking Order dated 2nd September 2023 *qua* the shop premises bearing Shop No. 4/6, "Shiv Niwas", Rajawadi Naka, M.G. Road, Ghatkopar (East), Mumbai – 400077, (for short ***Impugned Notice and Order***) are under challenge.

6. Subsequently, a Notice dated 3rd June 2023 directing removal/demolition of unauthorized structure was also issued to the Petitioner. Learned counsel for the Respondents submits that the proceedings before the Respondent-Corporation/Concerned Authority are yet to attain finality. However, the Petitioner has approached this Court impugning the Show Cause Notice without availing the opportunity of filing an Objection before the Respondent-Corporation/Concerned Authority. It is therefore submitted that, the present Petitions are premature and liable to be dismissed on this ground.

7. When confronted with the aforesaid situation, learned counsel for the Petitioner fairly submits that one weeks time may be

accorded to file a detailed Objection against the Impugned Notice and Order. It is further submitted until disposal of such Objection, no coercive/demolition action be taken by the Respondents against the Petitioners.

8. We have considered the overall factual situation. At this stage, the Petitioners have directly assailed the Impugned Notice and Order. *Prima facie*, it appears that as the Impugned Notice and Order entails serious civil consequences of demolition, qua the Petitioners, the Petitioners be given an opportunity to prefer their Objection to the same.

9. We are not inclined to adjudicate the matter on merits at this stage. However, by way of an indulgence, we leave it open to the Petitioners to file a detailed Objection *qua* his right, title, and claim over the property in question being disputed in the given facts, within a period of one week from date of uploading of this Order.

10. In the event Petitioner submits such Objection within the time stipulated above, the Respondent-Corporation/Concerned Authority shall consider and decide the same expeditiously on merits and in accordance with law after affording an opportunity of hearing to the Petitioner preferably within a period of 8 (eight) weeks from the date of production of a certified copy of this Order. We are conscious of the fact that the Respondent-Corporation had, pursuant to the

Impugned Show Cause Notice dated 16th May 2023 passed a Speaking Order dated 2nd September 2023 which is also assailed in this proceedings.

11. In light of our observations above, it is clarified that the Impugned Notice and Order shall be governed by and be subject to the outcome of the pending proceedings and the final outcome/decision thereof. Until finalization thereof, we direct that the parties shall maintain *status quo* as on date, in the proceedings.

12. Accordingly, the Writ Petitions stand Disposed of in the above terms, without adverting to the merits of the matter.

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