

Rekha Patil

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 1753 OF 2025**

Prashant Shashikant Shinde

...Petitioner

Vs.

The State of Maharashtra and Ors.

...Respondents

.....

Mr. R. P. Ojha with Mr. H. P. Panday, Advocates for the
Petitioner.

Mr. Manish Upadhye, Assistant Government Pleader, for the
Respondent Nos. 1, 8 and 9.

Ms. Oorja Dhond i/b Ms. Komal R. Punjabi, Advocate for the
Respondent Nos. 2 to 7.

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**CORAM: SHREE CHANDRASHEKHAR, CJ &
SUMAN SHYAM, J.**

DATE: 22nd APRIL 2026.

PC:-

The petitioner claiming himself a resident of Shimpoli, Borivali West and residing at A-207, Shivai Co-operative Housing Society is seeking a direction upon the respondent nos. 3 to 5 to implement the demolition order dated 9th September 2023 passed by 5th respondent-Designated Officer.

2. The petitioner has made the following prayers:-

“ a) That this Hon'ble Court may be pleased to issue writ of Mandamus for enforcement of duties of Respondents No. 3 to 5 and implementation of Speaking Order/ Demolition Order dated 09/09/2023 passed by Respondent No. 5 against the unauthorized constructions of temporary sheds of APNA FRUIT MARKET erected on the open land bearing C.T.S. No. 22A/1A,

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Survey No. 4 of Village- Shimpawali, Opp. Chikuwadi, Link Road, Borivali (W), Mumbai- 400092 which is reserved for Playground in DCPR 2034;

b) That the Hon'ble court may further be pleased to issue writ of Mandamus directing Respondents No. 3 to 5 for the implementation of Notice bearing No.RC/DO1RC/017/349-MMC ACT/ RC329N01/31-07-2023 dated 31/07/2023 issued u/s 349 of the MMC Act passed by the Respondent No. 5 against STRIKERS ARENA MULTI SPORTS ASTRO TURF constructed on the open land bearing C.T.S. No. 22A/1A, Survey No. 4 of Village- Shimpawali, Opp. Chikuwadi, Link Road, Borivali (W), Mumbai-400092;

c) That the Hon'ble court may further be pleased to issue writ of Mandamus directing Respondent No. 3 to 5 to recover a sum of Rs. 3,07,40,082/- (Rupees Three Crore seven lacs forty thousand eighty-two) imposed as penalty on the owner/occupier of APNA FRUIT MARKET on the said market vide notice bearing No. AC/RC/63/SR/BF dated 21/06/2024 issued by the Respondent No5;

d) That the Hon'ble court may further be pleased to issue writ of Mandamus directing Respondent No. 2 for removal of all the encroachments and demolish all other unauthorized structures constructed existing on the open land bearing bearing C.T.S. No. 22A/1A, Survey No. 4 of Village-Shimpawali, Opp. Chikuwadi, Link Road, Borivali (W), Mumbai- 400092 to retain the original state/ open to sky condition of the land and to maintain it as an open space for public use;

e) That the Hon'ble court may further be pleased to issue writ of Mandamus directing Respondent No. 2 to 5 for taking effective measures to prevent future encroachments and ensure the land is protected from further illegal occupation;

f) That the Hon'ble court may further be pleased to issue writ of Mandamus directing Respondent No. 1 to take prompt steps for the development of 22A/1A, Survey No. 4 of Village- Shimpawali, Opp. playground on the said open land bearing C.T.S. No. Chikuwadi, Link Road, Borivali (W), Mumbai-400092 by implementing DCPR 2034 scrupulously;

g) That the Hon'ble court may further be pleased to issue writ of Mandamus directing Respondent No. 2 to initiate appropriate disciplinary action and vigilance inquiry against Mr. Dharmendra Kantharia, the Designated Officer, Building & factory Department, R/Central ward, M.C.G.M. for his intentional delay and dereliction in discharge of official duties against illegal encroachments of open spaces duly reserved for public utilities.

h) That the cost of this Writ petition be granted for;

i) That such other and further reliefs as deem fit and proper may be granted for.”

3. If at all the Designated Officer has a duty in law, by issuing a demolition order on 9th September 2023 he has discharged his statutory duty. The writ Court shall not regulate the proceeding under the Maharashtra Regional and Town Planning Act, 1966. The writ Court shall also not act as the executing authority so as to ensure that the order passed by the statutory authorities are properly complied.

4. The learned counsel for the petitioner states that the subject property was previously utilized by the neighbours as a play ground. If that is so, the dispute between the parties shall lie before the Civil Court.

5. From the statements made in this writ petition, we do not find that the petitioner has made a positive statement that no petition with respect to the demolition order dated 9th September 2023 is pending before any Court or Forum.

6. In view thereof, we are not inclined to entertain this writ petition.

7. Writ Petition No. 1753 of 2025 is dismissed.

(SUMAN SHYAM, J)

(CHIEF JUSTICE)