

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 4136 OF 2024**

Balu Ganpat Desai

...Petitioner

Vs.

The State of Maharashtra
Through The Hon'ble Secretary
Urban Development Department

...Respondent

Adv. Krunal S. Thakkar a/w Adv. Sahir Patel - Advocate for the
Petitioner

Adv. Chaitanya Chavan a/w Adv. Smita Tondwalkar - for the
Respondent-BMC

Shri Dhiraj Darade – Jr. Engg. (B nad F) K/N Ward

Shri Mohit Jadhav – Addl. GP – for Respondent-State

Adv. Omprakash Pandey a/w Ms. Suchita Pandey – For Respondent
No. 9.

**CORAM : M. S. KARNIK AND
 S. M. MODAK, JJ.**

DATE : 01st APRIL 2026

P. C. :-

1. In this petition, the Petitioner seeks the substantial relief in terms
of prayer clause 'a':-

- a) That this Hon'ble Court may be pleased to issue a
Writ of Mandamus or any other appropriate Writ,
order or direction in the nature of Writ of
Mandamus or any other Writ in the nature of

Mandamus commanding/directing the Respondent Nos. 1 to 4 to initiate appropriate steps and proceedings against Respondent Nos. 2 to 7 and to forthwith take action against the Respondent No. 9 and further to direct the Respondent No. 9 to forthwith remove the unauthorized construction / modification / alteration and / or additions carried out by him in Flat No.A-105 situated at Ambika tower CHS Ltd., Jijamata Chawk, Andheri (East) Mumbai 400092 and further to recover the costs incurred from the Respondent No.9 as contemplated under the provisions of the MRTP Act.

2. The learned counsel for the Corporation submitted that appropriate notice has been issued against the offending structure. Respondent No. 9 approached the City Civil Court. The City Civil Court directed the Corporation to pass the speaking order. Accordingly, the speaking order after hearing the concerned parties was passed on 12.06.2025. The order reads thus :-

“You are hereby directed to remove/restore the notice work shown in notice sketch within 15 Days from the receipt of this letter, failing which the same will be demolished by this office staff at your risk, cost & consequences.

You shall further note that on failure to comply with the notice action issued under section MRTP Act are liable

to be punished with imprisonment under section 475-A MMC Act for a term which shall be not be less than one month but which may extend to one year and with a fine which shall not be less than five thousand rupees but which may extend to Twenty Five Thousand Rupees and in the case of continuous offence with a further daily fine which may extend to five hundreds rupees.

3. In such view of the matter, the Corporation has to proceed against the unauthorized construction.

4. Affidavit-in-reply filed by the Respondent No. 9 is taken on record by extending the time to file the same till today. Affidavit in reply filed by the Corporation is taken on record. Para No. 7 of the reply filed by the Corporation lists the following illegalities committed by Respondent No. 9 reads thus :-

- (i) Entry constructed to living room window wall by removing the brick masonry wall;
- (ii) Common brick masonry wall of bedroom was partially demolished and two new additional brick masonry walls were constructed; and
- (iii) Right side toilet entry was found to have been changed beyond approved plan dated 12.03.2010.

5. The learned counsel for the Respondent No. 9 submitted that an application for regularization has been filed. The grievance of the Respondent No. 9 is that, in respect of the flat which is in his

possession, the changes/alterations made can be regularized. Accordingly, the Respondent No. 9 assures that within a period of two weeks from today, he would file an application for regularization to the Municipal Corporation.

6. If an application for regularization is filed, the same shall be obviously dealt with in accordance with law by the Corporation expeditiously and in any case within a period of twelve weeks from the date of filing of such application. The Respondent No. 9 to file such application within the period of two weeks. If decision on application is adverse to the interest of the Respondent No. 9, then Respondent-Corporation must act on the notice which has been issued against Respondent No. 9, in accordance with law subject to any legal impediment.

7. The Writ Petition is disposed of in the aforesaid terms.

(S. M. MODAK, J.)

(M. S. KARNIK, J.)