

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**WRIT PETITION NO. 4069 OF 2025
WITH
INTERIM APPLICATION (L) NO. 19760 OF 2026**

Atish Anand Vaity

...Petitioner

Versus

Brihanmumbai Municipal Corporation
Thr. Commissioner

...Respondent

Mr. Harshad Sathe (Thr. V.C.) a/w Ms. Manvi Sharma & Ms. Aishwaryta Hinge for the Petitioner.

Mr. Dhruvad Patil a/w Ms. Smita Tondwalkar for Respondent Nos.1 to 5/BMC.

Mr. Atul Damle, Senior Advocate a/w Mr. Amit Gharte for the Intervener.

Mr. Milind More, Addl. G.P. a/w Mr. S.B. Gore, AGP for Respondent Nos.6 & 7.

Mr. Girish Padelkar, Sub. Engg. (Traffic Dept.), BMC, present.

Mr. Vivek Bagade, S.E. (Roads), M/E Ward, BMC, present.

**CORAM : RAVINDRA V. GHUGE, ACJ.
&
GAUTAM A. ANKHAD, J.**

DATE : 12th JUNE, 2026

P.C. :-

1. On 18th November, 2025, we had passed a final order which contains certain directions. The Petition was disposed off and listed today for recording compliance.

2. The issue brought before the Court was that the Department of Atomic Energy Anushakti Bhavan had donated the land to the Corporation for development of 50 ft. wide road. Respondent No.5 granted No Objection Certificate ('NOC') on 3rd February, 2016 for widening of the road. An encroachment occurred on the said road. Notice under Section 351 of the Mumbai Municipal Corporation Act, 1888 was issued by the Corporation on 17th September, 2010. In all seven notices were issued in-between 2010-2011. 192 trees were chopped down by the Corporation to facilitate the 50 ft. road widening. However, the Corporation laid a road admeasuring only 30 ft. Because of the encroachments, even a fire tender cannot enter because of the narrow roads and the Fire Department has communicated this fact to the Corporation.

3. After considering the record, this Court issued directions under Paragraph Nos. 5, 6 and 7, which read as under :-

“5. The learned Advocate for the Corporation submits on instructions that the Corporation is in the process of removing the encroachment and if the State grants police protection, the Corporation would remove the encroachments. In so far as the 50 ft. wide road is concerned, the Corporation will have to take a decision.

6. *The learned AGP submits on instructions that if the Corporation seeks police protection for removal of encroachment, the Police Authorities would promptly grant such protection.*

7. *In view of the above, we record that the Corporation will follow the due procedure laid down in law while removing the encroachments. In so far as the land donated by the Department of Atomic Energy for laying a road with 50 ft. width is concerned, we expect the Corporation to act pragmatically and if it is undisputed that a road of 50 ft. width was to be laid on the land donated by the Department of Atomic Energy, the Corporation shall do the needful in accordance with law. We expect the above steps for removal of the encroachments and laying of the road as per the approved width, to be completed by the Corporation within a period of 180 days out of which 90 days would utilised for removal of the encroachments and the remaining timeline would utilised for laying a road strictly as per the understanding between the Department of Atomic Energy and the Corporation.”*

4. In spite of having granted a period of 180 days out of which 90 days were to be utilized for removal of encroachments in the backdrop of the Corporation having issued notices under Section 351 of the Mumbai Municipal Corporation Act, 1888 in-between 2010-2011 and having axed 192 trees, nothing substantial has been done. Today, the learned Advocate for the Corporation is unable to convince us that the encroachments were removed within 90 days. He keeps harping on the issuance of notices.

5. We find that the notices were issued as early as in 2010-2011. 192 trees were axed for the purpose of widening of the road. For the last 16 years, the Corporation has apparently turned a blind eye to the encroachment and despite our directions, hardly any steps have been taken. The Corporation did not even have the courtesy towards the Court to move an application for seeking extension of time. Our order has been practically ignored. We are informed that a decision has been taken in principle to have a 40 ft. wide road.

6. In view of the above, we are compelled to *suo moto* **issue notice** to Respondent Nos.1 to 3. The Commissioner personally shall enter an affidavit-in-reply on or before 30th June, 2026. This Petition would be listed on **7th July, 2026**, in the ‘Urgent Supplementary Board’.

7. After considering the reply of the Commissioner, we would decide as to whether contempt of Court proceedings need to be initiated against Respondent Nos.1 to 3 under the provisions of the Contempt of Courts Act, 1971.

(GAUTAM A. ANKHAD, J.)

(ACTING CHIEF JUSTICE)