

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

WRIT PETITION NO.786 OF 2026

SATISH
RAMCHANDRA
SANGAR

Mr.Avtar Singh Sethi

...Petitioner

V/s.

State of Maharashtra and Ors.

...Respondents

WITH
INTERIM APPLICATION (L) NO.8881 OF 2026
[NOT ON BOARD : TAKEN ON BOARD]

Aboobakar Abdul Kadar Peringalam Cheriya

...Applicant

In the matter between:-

Mr.Avtar Singh Sethi

...Petitioner

V/s.

State of Maharashtra and Ors.

...Respondents

Mr.Jitesh Agarwal a/w Ms.Sunaina Chakravartty, Advocates for
Petitioner.

Mr.Amogh Singh a/w Mr.Rahul Arora, Advocates for Applicant.

Smt.Poonam Mittal, AGP, for Respondent No.1 – State.

Mrs.S.V.Tondawalkar, Advocate for Respondent-BMC.

Mr.Mahesh Naik, S.E. (B & F), K/W Ward, BMC.

CORAM : M.S.KARNIK &
S. M. MODAK, JJ.

DATE : 11th MARCH 2026

P. C. :-

1. Heard learned counsel for the Petitioner.

2. The Petitioner is the owner of the offending structure in respect of which, the speaking order dated 9th September 2025 has been passed by the Corporation. The order passed by the Corporation in conclusion records thus:-

“To treat the notice structure authorized, you must have a permission issued by the competent authority or your structure must reflect in plan sanctioned by the competent authority i.e. B.M.C. or to treat the commercial structure in tolerated category, you must have documentary proofs which can prove that the structure was in existence prior to 01.04.1962 (for commercial structure) fixed by BMC to tolerated unauthorized structure.

Therefore, I pass the following order.

ORDER

You are hereby, directed to remove the said unauthorized work mentioned in the above referred notice within 15 days from the receipt of this order, failing which the noticed structure will be demolished by this department at your risk & cost and the charges of the demolition will be recovered from you and if not paid same will be recovered through assessment charges.

You shall further note that, failing to comply the above order, under section 475A of MMC Act, you are liable to be punished with an imprisonment for a term which shall not be less than one month but which may extend to one year and with fine which shall not be less than 500% but which may extended to 25,000/- rupees and in the case of continuing offence with a further daily fine which may extend to 500/- rupees for every day during such offence continuous after conviction from the first commission of the offence.

Designated Officer Ward K/west”

3. Learned counsel for the Petitioner submits that the premises in question are in occupation of the licensee. The illegal structure has not been constructed by the owner but by the licensee. Learned counsel submitted that the licensee is now saying that the illegal structure has been constructed by the owner. This according to the Petitioner is not the correct position and therefore, the Petition is filed for appropriate directions for taking necessary action against the said illegal construction pursuant to the order dated 9th September 2025 passed by the Corporation.

4. It is not possible for us to record any factual finding on the question as to who has raised the illegal construction. Suffice it to observe that the Corporation is bound to take appropriate action in terms of the order dated 9th September 2025 in accordance with law and subject to any legal impediment. The order dated 9th September 2025 shall obviously be taken to its logical conclusion. The Corporation shall at appropriate stage also consider whether there is failure on the part of the Petitioner to comply with the order as it is the stand of the Petitioner that he is willing to abide by the speaking order and has no objection for the demolition of the subject structure.

5. Shri.Singh appeared on behalf of the intervenor to submit that the licensee has filed appropriate proceeding challenging the said notice issued by the Corporation and the civil suit is pending in which interim protection is granted. In such view of the matter, subject to any legal impediment, the Corporation may take appropriate action in accordance with law. Obviously, the Corporation can proceed only if there is no restraint by the Civil Court from taking action.

6. It is made clear that we have not made any observations about the merits, in respect of the contentions and the civil Court shall obviously pass appropriate orders in the suit without being influenced by any observations made by this Court.

7. Accordingly, the Writ Petition is disposed of.

8. Interim Application also stands disposed of.

(S. M. MODAK, J.)

(M. S. KARNIK, J.)