



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 1116 OF 2026

(Vinod s/o Dinanath Duseja & Ors. Vs. Nagpur Municipal Corporation, through its
Commissioner & Ors.)

WITH WRIT PETITION NO. 998 OF 2026

(Nand Kumar s/o Khattumal Harchandani Vs. Nagpur Municipal Corporation & Ors.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

WRIT PETITION NO. 1116/2026

Mr. Shyam Dewani, Counsel for the petitioners.

Mr. J.B. Kasat, Counsel for respondent no.1 – NMC.

Mr. Milind Sathe, Advocate General with Mr. K.R. Lule, A.G.P.
for respondent no.2.

WRIT PETITION NO. 998/2026

Mr. D.V. Chauhan, Senior Counsel with Mr. A.S. Dabadghao,
Counsel for the petitioner.

Mr. J.B. Kasat, Counsel for for respondent no.1 – NMC.

Mr. Milind Sathe, Advocate General with Mr. K.R. Lule, A.G.P.
for respondent no.2.

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**CORAM : ANIL L. PANSARE AND
NIVEDITA P. MEHTA, JJ.
FEBRUARY 6, 2026**

WRIT PETITION NO. 998/2026

Heard.

2] The order impugned is passed in terms of Circular dated 22-9-2025 issued by the respondent. This circular refers to circular dated 25-4-2025 issued by the Urban Development Department, Government of Maharashtra.

3] We are informed that the Government of Maharashtra has issued this circular pursuant to the judgment dated 13-11-2024 passed by the Hon'ble Apex Court in Re : Directions in the matter of demolition of structures [Writ Petition (C) 295/2022].

4] We would invite attention of both the parties to the judgment of the Hon'ble Supreme Court in the case of *Municipal Corporation of Greater Mumbai and others Vs. Sunbeam High Tech Developers Pvt. Ltd. [(2019) 20 SCC 781]* wherein the issue involved was pertaining to the construction taken up within the jurisdiction of Municipal Corporation at Mumbai. The Supreme Court, while deprecating the practice of raising illegal/unauthorized constructions issued directions regarding the manner in which the evidence of illegal construction/reconstruction is collected and notices issued and served. The Supreme Court directed Registrar General of Bombay High Court to serve copies of the judgment upon the Chief Secretary, State of Maharashtra as well as Principal Secretary, Urban Development Department, Mumbai, Maharashtra, who were then directed to serve the judgment upon all the municipal corporations in the entire State of Maharashtra. This obviously is done for compliance of the directions which *inter alia* speaks of the manner in which the unauthorized illegal construction is to be dealt with. (Special reference to paragraph nos. 24.3 and 24.4 of the judgment).

5] We are not aware whether the respondent has taken cognizance of this judgment nor are we aware whether the Chief Secretary of the State of Maharashtra and Principal Secretary of Urban Development Department have taken steps for compliance of these directions either by way of issuing circular or otherwise.

6] We further invite attention of both the parties to the judgment of the Supreme Court dated

17-12-2024 in the case of ***Rajendra Kumar Barjatya and another Vs. U. P Avas Evam Vikas Pairshad and others [2024 SCC OnLine SC 3767]***, which is passed in about one month of the judgment which the State Government has taken cognizance of, wherein the Supreme Court taking aid of its earlier judgment i.e. judgment mentioned above, held thus :

“19. In a catena of decisions, this Court has categorically held that illegally of unauthorized construction cannot be perpetuated. If the construction is made in contravention of the Acts/Rules, it would be construed as illegal and unauthorized construction, which has to be necessarily demolished. It cannot be legitimized or protected solely under the ruse of the passage of time or citing inaction of the authorities or by taking recourse to the excuse that substantial money has been spent on the said construction. The following decisions are of relevance and hence cited herein below to drive home the point that unauthorized constructions must be dealt with, with an iron hand and not kid gloves.....”

7] The Court, then, referred to the judgment in *Directions In The Matter Of Demolition Of Structures, In Re (supra)*, and held thus :

“20. In the ultimate analysis, we are of the opinion that construction (s) put up in violation of or deviation from the building plan approved by the local authority and the constructions which are audaciously put up without any building planning approval, cannot be encouraged. Each and every construction must be made scrupulously following and strictly adhering to the Rules. In the event of any violation being brought to the notice of the Courts, it has to be curtailed with iron hands and any lenience afforded to them would amount to showing misplaced sympathy. Delay in directing rectification of illegalities, administrative failure, regulatory inefficiency, cost of construction and investment, negligence

and laxity on the part of the authorities concerned in performing their obligation(s) under the Act, cannot be used as a shield to defend action taken against the illegal/unauthorized constructions. That apart, the State Governments often seek to enrich themselves through the process of regularisation by condoning/ratifying the violations and illegalities. The State is unmindful that this gain is insignificant compared to the long-term damage it causes to the orderly urban development and irreversible adverse impact on the environment. Hence, regularization schemes must be brought out only in exceptional circumstances and as a onetime measure for residential houses after a detailed survey and considering the nature of land, fertility, usage, impact on the environment, availability and distribution of resources, proximity to water bodies/rivers and larger public interest. Unauthorised constructions, apart from posing a threat to the life of the occupants and the citizens living nearby, also have an effect on resources like electricity, ground water and access to roads, which are primarily designed to be made available in orderly development and authorized activities. Master plan or the zonal development cannot be just individual centric but also must be devised keeping in mind the larger interest of the public and the environment. Unless the administration is streamlined and the persons entrusted with the implementation of the act are held accountable for their failure in performing statutory obligations, violations of this nature would go unchecked and become more rampant. If the officials are let scot-free, they will be emboldened and would continue to turn a nelson's eye to all the illegalities resulting in derailment of all planned projects and pollution, disorderly traffic, security risks, etc.”

8] Thereafter the Supreme Court issued further directions. The Supreme Court directed its Registrar (Judicial) to circulate copy of the judgment to the Chief Secretaries of all the States with direction to issue circulars to all the local authorities/corporations.

We are not aware whether the State Government has issued circular in compliance to the subsequent judgment of the Supreme Court.

9] The circular as noted above has been issued by the State Government on 25-4-2025. The subsequent judgment of the Supreme Court is dated 17-12-2024. We would, therefore, like to know from the State Government whether the circular so issued includes all contingencies including the directions issued by the Supreme Court in the case of *Sunbeam High Tech Developers* (supra), so also *Rajendra Kumar's* case.

10] We would remind the respondent of our order dated 6-1-2026 passed in Writ Petition Nos. 198/2005 and 1025/2016 (Vijay Rambhauji Babhare Vs. Nagpur Municipal Corporation) wherein we have directed respondents to proceed to take action strictly in accordance with the provisions of law and the directions issued by the Hon'ble Supreme Court in the case *[Re : Directions in the matter of demolition of structures]* with a rider to verify whether the directions issued by the Supreme Court are applicable to the case in hand where the unauthorized/illegal status of structures has attained finality in the year 2015 upon withdrawal of LPA filed by the respondent no. 4 (petitioner herein) and inaction to prosecute any other remedy.

11] We may further note here that the law on the point of precedent is where there is conflicting or different views on the subject matter, the law laid down in the previous case will be applicable. {Reference : *National Insurance Company Limited Vs. Pranay Sethi*

and others [(2017) 16 SCC 680]}. As such, in the judgment of the Supreme Court, which we have referred to, a consistent view is taken and deprecated constructing unauthorized/illegal structures but various directions are given, of which the directions given in the ***Sunbeam High Tech Developers*** case (supra) are relevant here.

12] Most importantly, in these judgments, the Supreme Court highlighted the importance of giving opportunity to the person who has made construction either in violation of permission granted or is made without permission or is otherwise found to be illegal/unauthorized. Thus, what is important is to give opportunity to such persons to take corrective measures.

13] In the present case, after having given all the opportunities and after exercising all the remedies as available to the petitioner when he withdrew LPA in the year 2015 and when he did not pursue any other remedy and when the petitioner was aware that part of the structure known as Poonam Chamber was illegal and/or unauthorized, and since respondent is/was not taking fresh action, we are of the view that the respondent was not under obligation to proceed in terms of circular issued either by the State Government which even otherwise makes no reference to ***Sunbeam High Tech Developers*** (supra) case.

14] We would like to hear State Government on this point. The petitioner shall accordingly add the Chief Secretary, State of Maharashtra as well as Principal Secretary of Urban Development Department of State of Maharashtra as party respondents.

15] The amendment shall be carried out forthwith.

16] Issue notice to newly added respondents, returnable forthwith.

17] Mr. K. R. Lule, learned Assistant Government Pleader waives notice for newly added respondents.

18] As such, on this point, we wished to hear Government Pleader, however, since Mr. D. V. Chauhan, who otherwise holds Office of Government Pleader is appearing for the petitioner and who has now recused, we would request Advocate General of State of Maharashtra to assist us.

19] Matter kept back at 2.30 p.m.

20] All concerned to act on steno copy.

(JUDGE)

(JUDGE)

LATER ON

21] Mr. Milind Sathe, learned Advocate General, is present on V.C. Since the steno copy of the order could not be furnished to him, we have informed him of what transpired in the morning session. He appears to have been apprised of the matter and was, to certain extent, prepared. We requested him to take instructions on the steps taken by the newly added respondents pursuant to the judgment of the Hon'ble Supreme Court, particularly judgment in the case of *Sunbeam High Tech Developers (supra)*.

22] On merit, we have heard both the sides at length, and when we were not inclined to grant relief, the petitioner in-person intervened. He submits that he has removed the Counsel on record appearing for him. He, then, made a request to give him an opportunity of hearing.

23] As such, the Bombay High Court Appellate Side Rules, 1960 (for short “Rules of 1960”), provides that a party in-person cannot be heard directly, and has to undergo the process of interaction with the Registrar.

24] Nonetheless, since the order that we intend to pass is an order against him, we entertained him, and heard him for some time. During the course of hearing, the arguments put forth are more of sympathy than on merits.

25] The impugned order indicates that the petitioner failed to submit any document showing sanction to the construction referred to in the notice dated 26/8/2004. When enquired as to whether the petitioner possesses any such document, he submitted that way back an application was made by him for revised sanction. The Corporation issued demand, which was never accepted. This aspect, in our view, was the subject matter of proceeding then pending before this Court. Ultimately, the petitioner chose to withdraw the Letters Patent Appeal being Letters Patent Appeal No. 81/2006. The petitioner was given liberty to avail remedy as open to him in law. Thereafter, he appears to have, on 9/2/2016, made a communication with the Corporation to consider the plans for sanction.

26] We have gone through the communication to find that except for communication, nothing else is placed on record. The communication does not refer to enclosures made along with it. Mr. Kasat submitted that this communication is not and cannot be treated as application under Section 53(3) and/or Section 44 of the Maharashtra Regional and Town Planning Act, 1966.

27] On this point, the petitioner in-person has not produced any document to show that, along with the communication, were submitted certain documents, and even if submitted, the petitioner never followed or pursued any action pursuant to the said communication.

28] The end result is, there is not a single document in possession of the petitioner to show that the construction under question has ever received approval.

29] Nonetheless, since the petitioner is insisting for one more opportunity, we are inclined to grant the same subject, however, the petitioner depositing Rs.10,00,000/- with the Registry of this Court, which he assured to deposit by tomorrow. His statement is accepted.

30] Accordingly, list for further consideration on 10/2/2026.

31] In the meantime, the petitioner shall appear before the Registrar (Administration) for in-person hearing in terms of Chapter IV-A of the Rules of 1960.

32] Interim relief to continue till then.

WRIT PETITION NO. 1116/2026

33] Heard.

34] As such, the Counsel failed to show us any document to show that construction under question is/was approved, one of the arguments is that pursuant to notice issued to the petitioners, which, according to them, is not served upon some of them, respondent no.1 – NMC has not taken decision, though reply to notice is filed on 4/2/2026. It appears to us that petitioners belong to one family or are close relatives. The decision of respondent, however, is awaited. The petitioners shall appear before the respondent at 11:00 am on 9/2/2026 with necessary documents. The respondent shall then take decision and communicate them through e-mail and whats app, details of which shall be furnished by the petitioners.

35] List on 10/2/2026 for further consideration.

36] Interim relief to continue till then.

(JUDGE)

(JUDGE)

Wasnik/Sumit