



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR
WRIT PETITION NO.1116/2026

Vinod Dinanath Duseja and Ors. .Vs. Nagpur Municipal Corporation, Nagpur and Ors.

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

Court's or Judge's orders

Mr. Shyam Dewani, Advocate for petitioners.
Mr. J. B. Kasat, Advocate for respondent No.1.
Mr. Milind Sathe, Advocate General with Mr. K. R. Lule, A.G.P. for respondent
Nos.2 and 3.

CORAM : ANIL L. PANSARE AND NIVEDITA P. MEHTA, JJ.

DATE : FEBRUARY 10, 2026.

Civil Application No. 349/2026

For the reasons set out in the application, the application is
allowed.

2. Amendment shall be carried out forthwith.
3. The application is disposed of.

WRIT PETITION NO.1116/2026

Challenge is to notice dated 30.01.2026, issued by respondent No.1, which is followed by an order dated 09.02.2026. By notice dated 30.01.2026, the petitioners were called upon to vacate shops under question to enable respondent No.1 to demolish unauthorised/illegal construction. Respondent No.1, in its notice dated 30.01.2026, referred to order dated 20.01.2026 passed by him against original owner/developer who constructed a building named and styled as "Poonam Chambers", whereby he was called upon to remove the unauthorized construction made by him which was notified to him vide notice dated 26.08.2004. The original owner/developer is petitioner in connected matter viz. Writ Petition No.998/2026, which is also listed today.

2. Before we delve upon petitioners' case, we feel it necessary to put forth list of events as disclosed to us:

<u>Date</u>	<u>Particulars</u>
26/08/2004	NMC issued notice u/s 53 of MRTP Act to the original owner/developer, specifying that the 7 th floor was totally unauthorized, building was 3 meters over the sanctioned height, shops were constructed in the basement area meant for parking etc.
28/10/2004	Original owner/developer filed revised plan for sanction.
22/11/2004	NMC rejected the said revised plan.
18/01/2005	One Vijay Babhare filed petition seeking action against the illegal construction by the Original owner/developer in the building named, "Poonam Chambers".
2005	The respondent no.4, owner filed appeal u/s 47 of MRTP Act against the rejection of the plan on 22/11/2004.
27/01/2005	This Hon'ble Court directed the State Government to decide the appeal.
07/02/2005	The Original owner/developer filed SLP (C) -3101/2005 before the Hon'ble Supreme Court.
10/02/2005	The Supreme Court granted stay to the demolition till next date.
25/02/2005	The appeal u/s 47 of MRTP Act came to be rejected by the State Government.
2005	Original owner/developer filed Writ Petition No.3746/2005 against notice dated 26/08/2004, rejection order dated 22/11/2004 and order of the State Government rejecting the appeal dated 25/02/2005.
27/02/2006	The Supreme Court disposed of the SLP as State Government already passed order of rejection on 25/02/2005 and same was under challenge before the High Court in Writ Petition No.3746/2005.
13/04/2006	Writ Petition No.3746/2005 preferred by the Original owner/developer came to be dismissed challenging the order of rejection of appeal by the State Government and rejection of the revised plan.
2006	The Original owner/developer filed LPA No.81/2006 against the judgment and order in Writ Petition No.3746/2005, dated 13/04/2006.
27/06/2006	The Original owner/developer owner submitted revised plan of Poonam Chambers.
17/11/2006	After considering the revised map plan, demand of Rs.97,14,581/- was issued to the Original owner/developer. The Original owner/developer disputed the said demand as according to him, same had to be made as per old rates.
30/07/2009	NMC resolved by Resolution Nos.434-436, dated 30/07/2009 to put 3 acres including Poonam Chambers from Residential User to Commercial User by modification in Development Plan u/s 37 of MRTP Act – Clause 13.6.2 – No Shopping Frontage Road.
04/09/2009	Hon'ble M.C. forwarded proposal for quashing of Resolution Nos.434-436, dated 30/07/2009 to State Government u/s 64(A) of CNC Act and the State Government rescinded the said resolutions.

07/12/2011	That as the revised plan dated 27/06/2006 was not in consonance to DCR-2001, Nagpur City, the revised plan was returned to the Original owner/developer to submit the same as per DCR-2001 of Nagpur City.
27/11/2015	LPA was disposed of as withdrawn with liberty to the Original owner/developer to prosecute such other remedy as is open to him in law.

3. Thus, the original owner/developer has tested the notice dated 26.08.2004 before the available forums including the High Court but could not succeed. He withdrew the Letters Patent Appeal with liberty to prosecute such other remedy as is open to him in law. Thereafter and till date, he failed to get any document by which the construction under question is regularized. As on date, undisputedly, the original owner/developer does not possess any document to show that the unauthorised construction notified to him vide notice dated 26.08.2004, ever received revised sanction or was otherwise regularized.

4. Despite such status, the petitioners have purchased suit shops subsequent to the issuance of notice dated 26.08.2004. Rather, most of the shops were purchased in September-2021 and November-2025. There is no gain saying that original owner/developer could not have sold these shops to anyone including the petitioners or their predecessors, if any. In the circumstances, in our view, there was no necessity to issue fresh notice to the petitioners. Nonetheless, respondent No.1, on 30.01.2026, issued notice to the petitioners here, which was followed by order dated 09.02.2026. Petitioners were called upon to remove unauthorised/ illegal structure.

5. We had accordingly heard the petitioners on 06.02.2026 and having considered submissions made by petitioners' counsel, we had directed the petitioners to appear before respondent No.1 on 09.02.2026 with the documents to show that the shops under

question were constructed in accordance with sanctioned/approved plan. Accordingly, petitioners appeared before respondent No.1, who passed order on 09.02.2026, mentioning therein that the request made by original owner/developer to sanction revised plan has been rejected vide order dated 04.02.2026. He referred to communication dated 06.02.2026 made by the original owner/developer, stating therein that if the Court passes order against him, he himself will remove the unauthorised structure. Copy of communication is also annexed with the impugned order.

6. Original owner/developer is petitioner in connected Writ Petition No.998/2026. The said petition was also heard at length on merit wherein the challenge was to the order dated 20.01.2026 (referred to above) passed by respondent – Corporation and when we showed disinclination to grant any relief, he made a statement that he himself will remove the unauthorised construction notified to him vide notice dated 26.08.2004 read with order dated 20.01.2026, which includes following construction:

- “1. Parking area admeasuring 1298.40 Sq. Mtr.
2. Construction beyond the plot admeasuring 1494.06 Sq. Mtr.
3. 7th Floor admeasuring 1175.42 Sq. Mtr.
4. Construction of 3.00 Meter above the permissible height.”

7. Thus, the original owner/developer showed willingness to remove the unauthorised construction mentioned above. While making statement, he does not say that he is not authorized to make statement on behalf of the petitioners. Thus, it appears that he is in complete command over the structure. His statement also suggests that he has informed the petitioners of the status of the construction. The petitioners' case, therefore, will have to be considered in the light of the above position.

8. Argument of the present petitioners is that the respondents are under obligation to follow the due process of law, in terms of directions given by Hon'ble Supreme Court in various judgments. In order to understand as to how State Government is proposing to comply these directions, we instructed the petitioners to add State Government as party-respondents. We have referred to these judgments in our order dated 06.02.2026, which reads as under:

“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 SC 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 obligations) under the Act, cannot be used as a shield to defend action taken against 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, environment, resources, proximity to water bodies/rivers and larger 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 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 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.”

9. As could be seen, reference to the judgments of the Supreme Court was made in Writ Petition No.998/2026 and accordingly, we instructed the petitioner to add State Government as party – respondents in the said petition. The petitioners herein have, however, made State Government as party – respondents in the instant petition as well.

10. In response to the aforesaid order, Mr. Milind Sathe, learned Advocate General appeared. He submits that judgment in *Municipal Corporation of Greater Mumbai and others Vs. Sunbeam High Tech Developers Pvt. Ltd. [(2019) 20 SCC 781]* will apply in full force. He further submits that judgment in the case of *Re: Directions in the matter of demolition of Structures [Writ Petition (C)295/2022] [2024 SCC OnLine SC 3291]*, will not give fresh cause of action in the cases which are otherwise closed. Lastly, Mr. Sathe submits that regularization in terms of the Maharashtra Municipal Corporations Act, 1949, can be done only in those cases, which can be regularized in terms of the law and not illegal construction.

11. In the present case, the status of unauthorised, illegal structure has attained finality in the year 2015 and, therefore, directions issued by Hon’ble Supreme Court in *Re: Directions in the*

matter of demolition of structures, supra, will not give rise to fresh cause of action.

12. As noted earlier, the petitioners have purchased the shops subsequent to issuance of notice of August-2004. Rather, most of the shops are purchased in the year 2021 and 2025. The petitioners were under obligation to verify the documents including sanction plan before entering into any contract.

13. Nonetheless, we inquired with the petitioners' counsel whether the petitioners have any documents to show that the shops under question have ever received authorization/sanction, he answered in the negative. His argument, however, is that the petitioners are bona fide purchasers and that the respondent-Corporation has collected property taxes from the petitioners and recognized them as owners. He further submits that since the petitioners are occupiers of the premises, the respondents are bound to follow the dictum of law, which existed even prior to the judgment mentioned above, of issuing notice and giving opportunity to the persons like the petitioners to invoke option of compounding the structure and/or regularization thereof.

14. We do not find any merit in the submission. The petitioners themselves are at fault of purchasing unauthorised/ illegally constructed shops. The title, therefore, never passed on to them. The revenue entries are not proof of title and are meant for fiscal purpose. Nonetheless, separate notices were issued to the petitioners to vacate the premises and opportunity of hearing was given to them by the respondents to submit documents in support. The petitioners responded to notice dated 30.01.2026, though saying that some of them have not received the same. The petitioners, thereafter appeared before the respondents but failed to submit any document indicating the approval/sanction to the shops under

question. We have also inquired with the petitioners' counsel and as noted above, the reply was, there is no sanction/approved plan in support. In the circumstances, if plea of petitioners is to be accepted, the situation will be that where the original owner proceeded to make unauthorised/illegal construction and his request to regularize the same is declined, the same will stand revived through subsequent purchaser and to allow the subsequent purchaser to then again opt for compounding/regularization, would amount to placing the regulatory framework at the mercy of wrongdoers. Such an outcome is not only legally impermissible but must be nipped at the bud to preserve the integrity of law.

15. Put all together, the unquestionable inference that flows is that the shops under question are unauthorised/illegal. The impugned order appears to us to be in tune with the provisions of law. No case is made out for interference in the writ jurisdiction. The petition is accordingly dismissed.

16. At this stage, counsel for the petitioners made a request to stay the effect and operation of the order.

17. It has been for more than two decades that the issue of removal/demolition of unauthorised construction is pending. The original owner/developer himself has now made a statement that he will remove/demolish the unauthorized construction which includes the shops under question within two months from today. The petitioners are at liberty to seek compensation from original owner/developer and/or the persons from whom they have purchased the shops.

18. The request is accordingly refused.

(JUDGE)

(JUDGE)