

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

WRIT PETITION NO.4542 OF 2024

Ashok Tukaram Ramugade]	
Senior Citizen, aged about 72 years,]	
62/603, Sahakar Society, Gorai Khadi,]	
L. T. Road, Above Neelam Pride Hotel,]	
Borivali (West, Mumbai – 400 091)]	... Petitioner

V/s.

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|----|---|---|--|
| 1. | Municipal Corporation of |] | |
| | Greater Mumbai, |] | |
| | Through the Office of Commissioner, |] | |
| | Municipal Corporation for Greater |] | |
| | Mumbai, Mahapalika Marg, CST, |] | |
| | Fort, Mumbai 400 001. |] | |
| 2. | Assistant Municipal Commissioner |] | |
| | R/Central, 1 st Floor, BMC Office Bldg., |] | |
| | Near Borivali Railway Station, |] | |
| | Chandrawakar Road, Mumbai – 400 092. |] | |
| 3. | Executive Engineer (B&F) |] | |
| | R/C Ward, |] | |
| | R/Central, 1 st Floor, BMC Office Bldg., |] | |
| | Near Borivali Railway Station, |] | |
| | Chandrawarkar Road, Mumbai – 400 092. |] | |
| 4. | D. D. Kantharia |] | |
| | The then designated Officer, R/Central |] | |
| | Ward, 1 st Floor, BMC Office Building, |] | |
| | Near Borivali Railway Station, |] | |
| | Chandrawakar Road, Mumbai – 400 092. |] | |
| 5. | Deepak J. Manjre |] | |
| | The then Asst. Engineer Building and |] | |
| | Factory, R/Central Ward, |] | |
| | 1 st Floor, BMC Office Building, |] | |
| | Near Borivali Railway Station, |] | |

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|----|---|---|-----------------|
| | Chandrawakar Road, Mumbai – 400 092. |] | |
| 6. | Nilkanth Jadhav |] | |
| | The then Officer, R/Central Ward, |] | |
| | 1 st Floor, BMC Office Building, |] | |
| | Near Borivali Railway Station, |] | |
| | Chandrawakar Road, Mumbai – 400 092. |] | |
| 7. | Blue Star Crystal Co-op |] | |
| | Housing Society Limited |] | |
| | Plot No.117, CTS No. 2434(4), |] | |
| | Opp. Prabodhankar Thakare, |] | |
| | Sodawala Lane Road, Borival (West), |] | |
| | Mumbai – 400 092. |] | |
| 8. | Paradigm Blue Star LLP |] | |
| | A Limited Liability Partnership duly |] | |
| | Registered under the Act, having its |] | |
| | Registered Address at 706 Aura Biplax, |] | |
| | Above Kalyan Jewellers, near to |] | |
| | Korakendra Flyover, Borivali West |] | |
| | Mumbai, 400092. |] | ... Respondents |

Mr. Adil Parsurampururia a/w. Adv. Amey Khot i/by M/s. Legal Vision for the Petitioner.

Ms. Smita Tondwalkar, for Respondent Nos.1 to 3-BMC.

Mr. Viraj Parikh i/by Trilegal for Respondent No.7.

Mr. Akash Shah a/w. Adv. D. Kharva for Respondent No.8.

**CORAM : A. S. GADKARI AND
KAMAL KHATA, JJ.**

**RESERVED ON : 4th May, 2026.
PRONOUNCED ON : 7th July, 2026.**

Judgment (Per : Kamal Khata, J) :-

1) By this Writ Petition under Article 226 of the Constitution of India, the Petitioner seeks a declaration that, the impugned Stop Work

Notice dated 18th January, 2024, as well as the impugned Order dated 1st February, 2024, are null and void. The impugned Notice and the Order pertain to a room admeasuring 120 sq. ft. carpet area situated at plot No.117, CTS No.2434(4) in Blue Star Crystal Housing Society compound located opposite Prabodhan Thakare, Sodawala Lane Road, Borivali (West), Mumbai – 400 092.

1.1) The Petitioner also seeks a declaration that the demolition of the said room, carried out on 2nd February, 2024 pursuant to the impugned Order dated 1st February, 2024, was illegal, null and void. As consequential reliefs, the Petitioner seeks directions against Respondent Nos.1 to 3 to restore the room admeasuring 120 sq. ft. and a further direction to Respondent Nos.1 to 6 to pay compensation of Rs. 80 lakhs, together with interest at the rate of 18% per annum until the actual payment, towards the loss allegedly suffered by the Petitioner on account of illegal demolition. The Petitioner further seeks a direction to Respondent No.1 to initiate disciplinary proceedings against Respondent Nos.4 to 6, who are the concerned Officers of Respondent No.1-Corporation concerned with the impugned action.

Background:

2) The Petitioner claims to be the owner of the structure on the basis of two Sale Deeds dated 13th July, 2004, executed between M/s. Star Construction Corporation and Mr. Roopam Kantilal Sanghvi and a

subsequent Sale Deed dated 5th March, 2009, executed between Mr. Roopam Kantilal Sanghvi and the Petitioner.

3) To establish that the subject structure was authorised, the Petitioner relies upon municipal assessment records, water and electricity bills and a license obtained for carrying out business from the subject premises. According to the Petitioner, the structure, along with the toilet block, was in existence prior to 1961-62. Reliance is also placed upon the building plan to support this contention.

4) Learned Advocate for the Petitioner submits that, the existence of the subject structure has been acknowledged by the developer, Paradigm Blue Star LLP, in the Development Agreement dated 22nd August, 2022. It is further submitted that the Architect's proposal Letter dated 15th December, 2021, acknowledges the existence of the structure and the FSI attributable to it.

5) The Petitioner alleges that, the Developer offered inadequate compensation for the subject premises and upon the Petitioner refusing to accept the same, threatened to have the structure demolished.

6) According to the Petitioner owing to the construction of a new building built upon a raised ground level, the subject premises came to be situated approximately four feet below the surrounding ground level, thereby giving rise to an apprehension of water-logging. The Petitioner, therefore, appointed an Architect and by a letter dated 18th April, 2023

sought permission to carry out repairs and renovation of the subject premises.

7) By a communication dated 20th December, 2023, the Executive Engineer informed the Petitioner that no permission was required for carrying out tenantable repairs. The Petitioner claims that, acting upon the said communication and adhering to the permissible FSI under the Development Control and Promotion Regulations 234 (DCPR 2034) he carried out only tenantable repairs to the existing premises.

8) On 18th January, 2024, Respondent No. 4 issued a Stop Work Notice alleging that the Petitioner had undertaken unauthorized construction beyond the area reflected in the plan approved by the Municipal Corporation of Greater Mumbai ('MCGM').

9) The Petitioner relies upon the plan approved by MCGM in respect of the Co-operative Society's property and the communication dated 20th December, 2023 to contend that the Stop Work Notice was issued without application of mind and with the malafide intention of dispossessing him from the subject premises. According to the Petitioner, he was entitled to reconstruct, repair and renovate the structure in accordance with the sanctioned plan and no violation of the applicable FSI norms had occurred.

10) Mr. Parsurampurua, appearing for the Petitioner narrated the aforesaid facts and submitted that in the aforesaid circumstances, the

present writ Petition be made absolute. The Respondents Advocates strenuously opposed the same.

Reasons & Conclusion

11) We have heard Mr. Parsurampurua, learned Advocate for the Petitioner, and the learned Advocates appearing for the Respondents. We have also perused the pleadings and documents placed on record.

12) The principal question is whether the Petitioner has produced any cogent material to establish that the subject structure was sanctioned or otherwise authorised under the applicable municipal laws.

13) The Petitioner relies substantially upon municipal assessment records, electricity and water bills and a licence issued for carrying on business from the premises. Such documents may indicate the existence or occupation of a structure, or the provision of municipal and utility services to it. They do not, by themselves, establish title to the land or demonstrate that the construction was sanctioned or authorised under the applicable planning laws.

14) An attempt is made to establish that the subject structure was in existence prior to 1960 on the basis of an assessment record which states that the structure was assessed prior to 31st March 1961. The assessment record, however does not specify the area, dimensions or configuration of the structure assessed at the relevant time. It, therefore, does not establish that the structure presently claimed by the Petitioner corresponds to the

structure referred to in the assessment record.

15) During the hearing, we called upon the learned Advocate for the Petitioner to produce the sanctioned plan pertaining to the subject structure or any document evidencing the Petitioner's ownership of the underlying land. Learned Advocate fairly stated that the Petitioner does not claim ownership of the land but claims ownership only of the structure. He relied upon the sale deeds and, in particular, upon the following recital appearing at internal page 7 of the sale deed dated 5th March, 2009:

“AND WHEREAS by an Indenture of Conveyance dated 1st day of March, 1982, executed between the original owners, therein referred as “the Vendors”, the said Builders, therein referred to as “the Confirming Party” and the said Society, therein referred to as “the Purchaser”, the said property (**except the said old structure room admeasuring about 120 sq.ft. which was occupied by the tenant Mr. Dwarkadas Kashalchand Shah**) was transferred to the said society and the same remained in the ownership of the said Builders and in the said Conveyance, the said society had agreed to admit anyone as a member whosoever is the Purchaser of the said premises.”

16) The aforesaid recital may constitute an acknowledgment, as between the parties to the private instrument, of the existence of a room admeasuring approximately 120 sq. ft. It cannot, however, operate as a municipal sanction or confer legality upon a structure which is otherwise not shown to have been constructed pursuant to a sanctioned plan. A

private agreement or conveyance recording the existence of a structure does not, by itself, establish that the structure was authorised under the applicable municipal and planning laws.

17) The recital also indicates that the room was occupied by a tenant and its purchaser would be entitled to seek membership of the Society. Admittedly, the Petitioner is not a member of the Society. There is also no material to show that, after purchasing the structure under the sale deed dated 5th March, 2009, the Petitioner applied for membership of the Society or that such an application was rejected.

18) More importantly, the Petitioner has not produced any sanctioned plan specifically pertaining to the subject structure whether for an area admeasuring 120 sq. ft. or 249.92 sq. ft. Nor is there any contemporaneous municipal record specifying its sanctioned area and dimensions.

19) The Petitioner's own material indicates that the structure, after the work undertaken by him, admeasured 22.94 sq. metres, equivalent to approximately 246.92 sq. ft. The sale deed upon which the Petitioner relies refers to a room admeasuring approximately 120 sq. ft. There is no documentary material explaining how a structure stated to admeasure 120 sq. ft. came to admeasure approximately 246.92 sq. ft., or demonstrating that such enlargement was sanctioned by the competent Authority.

20) Permission to carry out tenantable repairs does not authorise

an occupant to enlarge the area, alter the dimensions or reconstruct the premises contrary to a sanctioned plan. Work which results in a substantial increase in the area or changes the original footprint and configuration of a structure cannot be protected merely by describing it as tenantable repairs.

21) In *Laxmi Shetye v MHADA* reported in 2024:BHC-OS:4270-DB the Division Bench concurred with the view taken by the Single Judge in *Sidharam M. Yanagandul & Anr. vs. State of Maharashtra and Anr reported in 2006 SCC OnLine Bom 971* who held that, any structure, whether authorised or unauthorised, constructed on a property within the limits of a municipal corporation can be assessed to municipal taxes. Mere fact that a structure which is erected without the permission of the Planning Authority and unauthorisedly is subsequently assessed to the property tax by the municipal corporation would not change the unauthorised character of the structure nor would make the structure authorised from the date of assessment.

22) We have noticed in several matters that reliance is placed upon old assessment records to claim protection for structures whose original area and dimensions are not disclosed in those records. Such assessment records cannot be used to legitimize subsequent additions or enlargements for which no municipal sanction is produced.

23) In *Siesta Industrial and Trading Corporation vs. MCGM* reported in 2026 SCC OnLine Bom 2799 the Court held the concerned

Officers who gave such permissions are responsible and are the cause of these rampant illegal constructions in the State. It is imperative for the Officers of the BMC to check as to whether the structure is authorized before granting any such repair permission. The failure per se cannot inure to the benefit of the wrongdoer. A permission to repair a structure, given subsequent to the datum line, cannot prove either its existence prior to datum line or it being authorised. In our view, granting reliefs to the Petitioners would only encourage the public perception that one can construct illegally and regularise the same by obtaining such permissions subsequently. It would render the entire object of the legislature to have a planned development and having the Municipal Act nugatory and otiose resulting in illegalities being confirmed and ratified by subsequent repair permissions.

24) The law must operate uniformly. A person who carries out construction or reconstruction must establish that the work is authorised under the applicable municipal and planning laws. In the present case, the Petitioner has failed to produce any sanctioned plan or other reliable documentary material establishing either that the alleged original structure measuring approximately 120 sq.ft or presently measuring approximately 246.92 sq. ft. was authorized and lawfully constructed.

25) In our view, the Petitioner has attempted to mislead the Court and gain unlawful advantage by stating that the subject premises was

authorised as it was acknowledged by the Society in the recitals and that based on assessment paid and electricity bills attempted to make us believe that the subject premises was authorised, thus, entitled to an authorised premises in turn. This in our view would be encouraging wrongdoers and illegal occupants to benefit from either their own or their predecessor's wrongdoings. Neither do these documents prove any title or entitlement of the Petitioner in law. On this ground alone the Petition deserves to be dismissed.

26) The Supreme Court in *SP Chengalvaraya Naidu v Jagannath & Ors* has held that a litigant who approaches the Court is bound to produce all the documents executed by him which are relevant to the litigation. If he withholds a vital document or suppresses material information in order to gain advantage over the other side then he would be guilty of playing a fraud on the Court as well as the opposite party. Such a party is not entitled to any relief. Above all, a Court must have a complete and candid disclosure of all material particulars. A failure to disclose material particulars is indistinguishable from an attempt to mislead the Court. This is now well settled in our jurisprudence. Reliance is placed on the following decisions:-

(i) *Hari Narain v Badri Das*, (1964) 2 SCR 203;

(ii) *Rajabhai Abdul Rehman Munshi v Vasudev Dhanjibhai Mody*, (1964) 3 SCR 481;

- (iii) *Gowrishankar & Anr v Joshi Amba Family Trust & Ors*, (1996) 3 SCC 210;
- (iv) *Ashok Leyland Ltd v State of Tamil Nadu & Anr*, (2004) 3 SCC 1, paragraph 116;
- (v) *AV Papayya Sastry & Ors v Government of AP & Ors*, (2007) 4 SCC 221;
- (vi) *Dalip Singh v State of UP*, (2010) 2 SCC 114;
- (vii) *Oswal Fats & Oils Ltd v Additional Commissioner (Administration) & Ors*, (2010) 4 SCC 728;
- (viii) *A Shanmugam v Ariya Kshatriya Rajakula Vamsathu, etc*, (2012) 6 SCC 430;
- (ix) *Maria Margarida Sequeira Fernandes & Ors v Erasmo Jack De Sequeira*, (2012) 5 SCC 370;
- (x) *Sciemed Overseas Inc v BOC India Ltd*, (2016) 3 SCC 70;
- (xi) *Dnyandeo Sabaji Naik & Anr v Pradnya Prakash Khadekar & Ors*, (2017) 5 SCC 496.

27) The Petitioner's claims regarding title to or possessory rights in the subject premises are founded upon private sale deeds and disputed factual assertions. The claim for restoration of the demolished structure and compensation of ₹80 lakh would require adjudication of disputed questions concerning title, possession, the legality and dimensions of the original structure, the nature and extent of the work undertaken by the Petitioner and the loss allegedly suffered by him. These issues cannot be adjudicated in the exercise of writ jurisdiction under Article 226 of the Constitution of India.

28) Insofar as the Petitioner claims tenancy, ownership or any other civil right in respect of the subject premises, it is open to him to institute appropriate proceedings before the competent forum. We express no opinion upon the merits of any such claim.

29) The Petition appears to seek adjudication of disputed private rights and substantial monetary relief in writ jurisdiction, despite the absence of any sanctioned plan pertaining to the subject structure and despite the unexplained increase in its area from approximately 120 sq. ft. to 246.92 sq. ft. The invocation of the extraordinary jurisdiction of this Court in these circumstances is misconceived.

30) On the material placed before us, we find no illegality in the issuance of the Stop Work Notice dated 18th January 2024 or in the order dated 1st February 2024. Consequently, the demolition carried out pursuant thereto cannot be held to be illegal in the present proceedings.

31) The Writ Petition is accordingly dismissed.

32) It is clarified that the dismissal of this Petition shall not preclude the Petitioner from pursuing such civil remedies as may be available to him in law. All contentions in any such proceedings are kept open.

33) Having regard to the nature of the claims made, the material facts concerning the dimensions of the structure and the reliefs sought against public officials, the Petition is dismissed. We were infact inclined to

impose exemplary costs, but since the Petitioner is a senior citizen aged about 72 years, we do not propose to impose any costs.

(KAMAL KHATA, J.)

(A.S. GADKARI, J.).