



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8980 OF 2024

Ravindra Kini]
having his address at]
Building No.18/403, Neel Sidhi Amarante,]
Sector 9E, Kalamboli-410218.] ... Petitioner

V/s.

1. Municipal Commissioner,]
Panvel Municipal Corporation]
Taluka Panvel, District Raigad-410206.]
2. Urban Development Branch,]
Near Hirakot Lake Alibaug,]
Taluka Alibaug, District Raigad-402201.]
3. District Planning Officer,]
District Collector Office ,]
Near Hirakot Lake, Tahsil-Alibaug]
District Raigad-402201.]
4. Ld. Secretary/Chairman]
of Amarante CHS Ltd.]
Neel Sidhi Amarante, Sector 9E,]
Kalamboli- 410218.]
5. Mr. Maksood Patel]
having his address at]
Flat No.303 in Building No.18]
Neel Sidhi Amarante, Sector 9E,]
Kalamboli-410218.]
6. The State of Maharashtra]
Through Government Pleader] ... Respondents

WITH
INTERIM APPLICATION NO.3556 OF 2026
IN
WRIT PETITION NO.8980 OF 2024

Rajbahadur Mohan Singh	]	
Age: 64 years, Indian Inhabitant	]	
Residing at Flat No.303, 3 rd Floor,	]	
Building No.18, Amarante CHSL,	]	
Plot No.4, Sector 9E, Kalamboli,	]	
Taluka Panvel, District Raigad-410218.	]	... Intervener

In the matter between

Ravindra Kini	]	
having his address at	]	
Building No.18/403, Neel Sidhi Amarante,	]	
Sector 9E, Kalamboli-410218.	]	... Petitioner

V/s.

- | | | |
|----|---|---|
| 1. | Panvel Municipal Corporation |] |
| | Through its Municipal Commissioner |] |
| | Panvel Municipal Corporation Bldg., |] |
| | Panvel, Taluka Panvel, Raigad-410206.] | |
| 2. | Urban Development Branch |] |
| | District Collector Office, |] |
| | Near Hirakot Lake, |] |
| | Tahsil-Alibaug, Raigad-402201. |] |
| 3. | District Planning Officer, Raigad |] |
| | District Collector Office |] |
| | Near Hirakot Lake, Tahsil-Alibaug |] |
| | Raigad-402201. |] |
| 4. | Amarante CHS Ltd. |] |
| | Through its Secretary/Chairman |] |
| | Having its registered office at |] |
| | Plot No.4, Sector 9E |] |
| | Kalamboli, Panvel, Raigad-410218. |] |
| 5. | Maksood Patel |] |
| | Having erstwhile address at |] |
| | Flat No.303, 3 rd Floor, Building No.18] | |
| | Amarante CHSL, Plot No.4, |] |
| | Sector 9E, Kalamboli, Taluka |] |

	Panvel, District Raigad-410218.	]	
6.	State of Maharashtra	]	
	Through the Government Pleader	]	
	High Court, Bombay.	]	... Respondents

Mr. Raghavendra S. Mehrotra a/w Ms. Madhat J. Shaikh i/by Lawkhart Legal Advocates & Legal Consultants for the Petitioners.

Mr. S.V. Gavand, for the Respondent No.1.

Mr. Ramiz Shaikh a/w Mr. Rishi Bindra, Mr. Bilal Mulla, Mr. Aradhya Sharma i/by Mr. Ramiz Shaikh for the subsequent purchaser.

Mr. M.M.Pabale, AGP, for the Respondent-State.

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

RESERVED ON : 6th May, 2026.

PRONOUNCED ON : 13th July, 2026.

Judgment (Per : A.S. Gadkari, J):-

1) By this Petition under Article 226 of the Constitution of India, the Petitioner seeks a direction to the Respondent Nos.1 to 3, to immediately demolish illegal and unauthorized constructions carried out by the Respondent No.5 in his flat.

Brief facts:

2) The Petitioner and the Respondent No.5 are residents of Building No.18 known as “Neel Sidhi Amarante”, located at Sector 9E, Kalamboli. The Petitioner occupies flat on the 4th floor, immediately above the flat of Respondent No. 5 on the 3rd floor. The Petitioner has been residing since

2016 in the said building.

3) According to the Petitioner, the Respondent No. 5 has under the garb of renovation work in the flat, erected permanent shade in the balcony by constructing brick and masonry walls and covering the terraces with tin sheets thereby enclosing the open terraces appurtenant to his flat, extended the bedroom by breaking the partition walls, without obtaining permission from the concerned authorities. Further, these alterations not only cause nuisance owing to the use of heavy construction equipment but also harm the structural stability of the building. Despite the Petitioner bring these unauthorised constructions to the notice of the office-bearers and Managing Committee of the Society, no action was taken for reasons best known to them.

4) The Petitioner first addressed a complaint in this regard on 6th March 2019 and thereafter regularly pursued the matter with the office-bearers of the Society as well as the Panvel Municipal Corporation (PMC). Aggrieved by their continued inaction, the Petitioner was constrained to institute the present Petition.

5) The PMC has filed an Affidavit-in-Reply of its Ward Officer dated 30th July, 2024.

6) Mr. Mehrotra appearing for the Petitioner, reiterates the aforesaid facts and submits that, the Respondent Nos. 1 to 4 have failed to take action against the illegal and unauthorized alteration carried out by Respondent

No.5 despite several complaints. He submits that the continued existence of these alterations has caused considerable disturbance and health related difficulties to the Petitioner and his family for over four years. He submits that the suit flat be restored as per the sanctioned plan to maintain the structural stability of the building.

7) Mr. Gavand, learned Advocate appearing for the Respondent No.1 relies upon the Affidavit of the Ward Officer of PMC. The Affidavit admits that the open terraces, appurtenant to the flat of the Respondent No. 5, have been covered without obtaining permission from the PMC and that the alterations in the flat are, therefore unauthorised.

7.1) He submits that the PMC had, in fact, demolished the unauthorized tin sheds admeasuring 44 ft. X 16 ft. on 25th February 2021. Respondent No.5 thereafter applied for permission to erect a temporary shed and, simultaneously with erecting such shed, instituted a Suit before the learned Civil Judge, Senior Division, Panvel, seeking a declaration and injunction restraining Respondent No.1 from demolishing the temporary shed.

7.2) That, by an Order dated 17th October, 2022 the trial Court granted a *status-quo* in that regard which interim Order has been extended from time to time.

7.3) He submits that, the PMC will initiate appropriate action as soon as the said Order is vacated.

8) Mr. Shaikh, learned Advocate appearing for the subsequent purchaser of the flat of Respondent No. 5, has filed an Interim Application seeking intervention. He submits that the alterations in the flat were made by the earlier owner and not the Applicant. The Applicant is therefore unaware about the alterations being unauthorised. He submits that according to the Applicant, most people in the society compound consisting of several buildings, have put up grills to their windows and covered the terraces. He submits that he is just being singled out unfairly.

9) We have heard all the Advocates for the respective parties and perused the entire record produced before us.

10) Upon considering the Affidavit-in-Reply filed by PMC and examining the photographs placed on record, we find that the open-to-sky terraces, as originally constructed by the developer, have been unauthorisedly enclosed by Respondent No. 5. The continued existence of such unauthorised constructions cannot be countenanced. They deserve to be removed forthwith.

11) The Intervenor's Application places on record communication addressed to the PMC giving details of various flats in the society buildings, that have similarly covered or enclosed balconies and terraces.

12) It is not the case of the PMC that all, or even most, of these enclosures are duly authorised.

13) In the present day, flat owners commonly install protective

grills, lightweight sheds or coverings over open terraces, or alter partition walls with wooden or gypsum sheets depending upon their individual requirements. These alterations may be carried out after obtaining occupation certificate (OC). But when carried out prior to the obtaining of OC the builder is unable to obtain the OC, giving rise to litigation with the builder. There appears to be no clear or readily accessible and economical procedure governing the grant of permission for such works.

14) In the absence of clear guidelines and an inexpensive and accessible procedure for obtaining permission, citizens often take the easier course of carrying out alterations without approaching the Municipal Corporation. This cannot and does not justify the illegality, but it highlights the need for a transparent and workable regulatory mechanism.

15) The present record further indicates that the complaint lodged by the Petitioner in March 2019 was acted upon only in February 2021, almost two years later. Such delays in enforcing the law reinforce the perception that unauthorised constructions may be carried out with impunity. Municipal Corporations cannot turn a blind eye to illegal constructions and act only when compelled to do so by judicial orders.

16) As observed by us in a recent judgment, there appears to be a widespread perception that one can carry out constructions or alterations without due permissions, and thereafter regularised, if and when complaints or objections come to be raised against them. Regrettably, this

perception is not entirely unfounded. The present case itself reveals that several such constructions or alterations have been carried out in the buildings forming part of the Society as categorically pointed out by the Intervenor Applicant.

17) There cannot be two classes of citizens: those who obey the law and those who openly disregard it. Nor can the law be enforced selectively against only those whose violations are reported, while other illegalities are allowed to continue merely because no objections have been raised.

18) Large-scale unauthorised constructions cannot be permitted to continue merely because similar illegalities have been committed by several persons. The State must, therefore, consider formulating a clear regulatory framework specifying the nature of alterations that may be carried out within individual flats and buildings without formal permission from the local Authority. Such a framework assumes importance because, given the large-scale of development within the State, it may not always be practically possible for Municipal Corporations to continuously supervise every minor or necessarily required alteration.

18.1) The regulatory framework must distinguish between alterations, which do not affect the structural stability or safety of the building and alterations capable of structurally weakening the building, endangering its occupants.

19) Courts are routinely confronted with proceedings concerning

illegal and unauthorised constructions of various kinds, whether within flats, on private plots or upon public open spaces. In many cases, such constructions continue either because of the inaction of Municipal Authorities despite complaints or in some instances, because of apparent official acquiescence. This is indeed a regrettable state of affairs.

20) The question that inevitably arises is why a law-abiding citizen should continue to comply with the law when confronted with unabashed and continuing illegalities, against which no prompt or effective action is taken. The absence of timely enforcement erodes respect for the law and removes any effective deterrent against unauthorised construction.

21) It appears that, the procedures presently followed by Municipal Corporations also require reconsideration. Applications are ordinarily required to be submitted online through Architects. The professional and procedural expenses involved in making such applications may in some cases, be disproportionate to the nature or cost of the alterations proposed and particularly of minor nature. This may be the cause that compel individuals from seeking prior permission, although it cannot excuse non-compliance with the law.

22) The continuation of such illegalities is also facilitated when Civil Courts grant orders of status quo or injunctions without promptly examining whether the construction sought to be protected is prima facie authorised. Such interim Orders, when continued for years on account of

the volume of cases or paucity of judicial time, may indirectly encourage unauthorised constructions.

23) Despite the law laid down and directions issued by the Supreme Court over several decades, unauthorised constructions continue unabated. This may also be attributable to a lack of proper instructions or effective assistance from advocates representing Municipal Corporations, resulting in illegal constructions being permitted to continue under interim protection.

24) Be that as it may, the law must operate equally against all persons. Unless and until an appropriate regulatory framework is introduced, every construction or alteration carried out without the permission required by the existing law must be dealt with in accordance with law.

25) The State must therefore, consider issuing appropriate directions or guidelines to all Municipal Corporations specifying the nature of alterations permissible including installation of protective grills and lightweight coverings over open terraces or spaces, amalgamation or division of areas by wooden or gypsum or such other permissible lightweight material, change or reallocation of utility areas that may be permissible. Such clarity is necessary to encourage citizens to abide with the law and avoid widespread uncertainty and the possibility of administrative or law-and-order difficulties across the State.

26) As regards the other unauthorised balcony and terrace coverings identified in the Affidavit filed in the Interim Application, the PMC shall issue notices to the concerned flat owners, calling upon them to furnish photographs and relevant documents pertaining to such coverings. The PMC shall examine whether the constructions are permissible and take appropriate action in respect of every unauthorised construction. The aforesaid exercise shall be completed within a period of six months from the date of this Order.

27) Uniformity in the enforcement of municipal laws is essential. Therefore, while directing action against the unauthorised constructions carried out by Respondent No. 5, it is also necessary to direct the PMC to examine and take appropriate action against all similar unauthorised constructions identified in the Affidavit. The municipal law must be applied uniformly and equally to all concerned.

28) In view of the above, the Petition is made absolute in terms of prayer clause (a), which reads thus:

“(a) For issuance of a writ of Mandamus or a writ in the nature of Mandamus or any other appropriate writ, order or direction under Article 226 of the Constitution of India, directing Respondent Nos. 1 to 3 to order the immediate demolition of the illegal and unauthorised construction carried out by Respondent No. 5,

comprising a shed over the terrace facing the road, a shed over the terrace at the rear side and an illegal room admeasuring approximately 800 sq. ft., and further directing Respondent No. 5 to immediately vacate the said illegal and unauthorised room constructed and occupied by him.”

29) The State shall formulate appropriate legislation, rules, circulars or guidelines governing:

- (i) coverings over open terraces;
- (ii) the installation of grills or similar protective structures on windows or terraces or open spaces;
- (iii) the nature of alterations permissible for individuals in an authorised construction or within a flat without obtaining prior permission from the concerned Municipal Corporation/Authorities.

29.1) The above noted categories are illustrative in nature and exhaustive. The State may add any other category as it deem fit and proper in that behalf.

30) The State and the Municipal Corporations shall also consider establishing an online portal through which individuals may intimate the concerned Authority of the alterations proposed to be carried out in the authorised constructions or flats, by uploading photographs, plans and

other relevant particulars for the concerned authority to determine whether the proposed works is permissible with or without its permission. The procedure may also mandate uploading documents including photographs indicating the status before and after the alteration. Where necessary, the Municipal Corporation may conduct a physical inspection. However, we make it clear that, it should not be an additional tool of harassment in the hands of Corporation's Officers but for the benefit of occupants, flat/tenement owners. The Certification of the alterations along with photographs by the Corporations should be made mandatory within prescribed time limit to avoid uncertainty at the end of the Municipal Authority. Every such certificate should bear a unique authorisation or verification code to ensure authenticity and transparency.

31) In the light of the principles laid down in: (i) *K. Ramadas Shenoy v. Chief Officers, Town Municipal Council, Udipi and Others* reported in (1974) 2 SCC 506; (ii) *Rajendra Kumar Barjatya and Another v. U.P. Avas Evam Vikas Parishad and Others* reported in 2024 SCC OnLine SC 3767; and (iii) *Kaniz Ahmed v. Sabuddin and Others* reported in 2025 SCC OnLine SC 995, exercising our powers under Article 226 of the Constitution of India to subserve the ends of justice, the suit R.C.S. No 311 of 2022 filed by the Respondent No.5 before the Civil Judge, Senior Division, Panvel, the Suit is dismissed and in consequence thereof, the interim Orders passed therein are set aside.

32) This Judgment shall be communicated to the concerned learned Judge seized of R.C.S. No.311 of 2022 by the Registry within one week from the date of uploading of this Judgment on the website of High Court of Bombay.

33) List the matter on 15th January, 2027 “for Compliance”.

34) In view of the disposal of the Writ Petition, the Interim Application does not survive and is accordingly disposed of.

35) The Registrar(Judicial-II) is directed to communicate this Order to the Additional Chief Secretary, U.D.D./Municipal Corporation for its renewal and to adopt necessary steps to formulate the Guidelines as noted in the foregoing paragraphs.

(KAMAL KHATA, J.)

(A.S. GADKARI, J.)