



Wadhwa

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
SUO MOTU PUBLIC INTEREST LITIGATION NO. 2 OF  
2024**

**High Court in its own Motion** ...Petitioner  
**In Re:** Article dated 3rd April 2024 by Ms Jyoti  
Punwani, "Life comes cheap for India's richest  
Corporation" and lined Hindustan Times  
Newsreports  
*Versus*  
State of Maharashtra & Ors ...Respondents

**Mr Sharan Jagtiani, Senior Advocate, with Mayur Khandeparkar-  
Amicus.**

**Dr Birendra Saraf, Advocate General, with Mrs PH Kantharia,  
GP, Vishal Thadani, Addl GP & Amar Mishra, AGP, for the  
State.**

**Mr Anil Singh, Senior Advocate, with Ms Oorja Dhond, i/b SK  
Sonawane, for the Respondent-BMC.**

**Mr Kishore Gandhi, Deputy Municipal Commissioner (Garden)  
and Chakrapani Alle, Assistant Commissioner, F/North Ward-  
present.**

**Mr Manoj M Waghri, father of both deceased sons.**

**CORAM G.S. Patel &  
Kamal Khata, JJ.**

**DATED: 8th April 2024**

**PC:-**

1. The matter is now assigned by an administrative order to this Court. We have listed it today because there appeared on 6th April 2024, an article in the Hindustan Times (a copy is to be included in the papers, and is annexed to this order) reporting that the hutment on the pavement and which was occupied by the parents of the two young boys was also demolished by the Brihanmumbai Municipal Corporation (“**BMC**”).

2. Before us today, Mr Singh appears for the BMC. Dr Saraf is present for the State Government. Mr Jagtiani and Mr Khandeparkar appear as Amicus. Also present in court is the father of the two boys, Manoj Manjit Waghri. His interests will be addressed by learned Amicus.

3. The reason we have placed the matter today is to allow the BMC an opportunity to place on Affidavit first, in regard to the demolition, the exact details. In particular, we will need to know whether that demolition was scheduled, was after notice and what procedure was followed prior to the demolition being carried out. We require this because it should not accidentally be suggested without factual basis or contrary to the record that the demolition was some sort of *ad hoc* action by the BMC.

4. There will be distinct issues here and we are concerned only with the first of these, namely the matter of liability for an accidental death. We are not concerned with matters regarding the removal of shanties for unauthorized constructions. Those are the subject matter of other Petitions, including Public Interest Litigations

(“**PIL**”). We will not be expanding the scope of the present PIL. It is for this reason that we require Mr Singh to place on Affidavit the exact steps that were taken prior to the demolition.

5. As to the question of liability or compensation, again, and in the first instance, Mr Singh will need to place on Affidavit what are the Standard Operating Procedures (“**SOP**”), protocols or directions that are issued whenever the BMC takes up any such work that involves digging up, excavation or creating a potentially dangerous situation in a place accessible to the public. We have not reached a conclusion one way or the other, and there are many possibilities that may arise in this particular case. It would be pointless to speculate at this stage, but it is enough to note that widely divergent legal consequences would follow depending on whether there is or is not in place a proper protocol or set of instructions or SOP.

6. We would prefer if Mr Singh separated the Affidavits. The first Affidavit from the BMC will thus deal with the question of removal of the shanties. On the principal question, that of working protocols and liabilities, a separate Affidavit should be filed. Obviously both Mr Singh and Dr Saraf will require some time.

7. The first Affidavit of the BMC regarding the removal of the shanties is to be filed and served by 19th April 2024.

8. We will list the matter initially on 23rd April 2024.

9. We will pass further directions on the next date.
10. The previous notice is now returnable on 23rd April 2024.

**(Kamal Khata, J)**

**(G. S. Patel, J)**

# Day after rap from HC on tank deaths, BMC razes tenements

Family that lost 2 kids after they fell into water tank in garden rendered homeless

**Sabah Virani**

sabah.virani@hindustantimes.com

**MUMBAI:** A day after the Bombay High Court took suo motu cognisance of reports in HT regarding the death of two children, aged four and five years, who fell into in an underground water tank in Maharashi Karve garden at Wadala, the Brihanmumbai Municipal Corporation (BMC) demolished the family's tenement on the footpath, leaving them defenceless against the sweltering summer heat and speeding vehicles.

"My children will not come back. But now, they have broken down our houses too," said Manoj Wagari, father of the deceased Ankush and Arjun Wagari. "All I ask is that we be given a place to stay, so I can protect the children I have left."

A photo of his deceased sons hung on the wall of what was once their home, beside a photo of goddess Lakshmi. The photo had a fresh garland on it, with



A relative reaches out to a photo of the two deceased kids that hang on a fence by the side of the road. RAJU SHINDE/HT PHOTO

March 18, 2024, the day the children died, printed beneath.

Till Tuesday morning, the footpath on either side of the Wadala bridge was enclosed by tenements made of patra (corrugated sheets), bamboo and tarpaulin, and the Wagaris lived in one such tenement. The corporation began demolishing tenements along this stretch on Tuesday; by Friday evening, all tenements had been razed.

Following the demolition, residents were forced to squat in the open under the harsh sun,

their belongings lying by the side of the road. A handful of the families strung up plastic sheets on bamboo poles for some shade, while the others sat helplessly on mats on the footpath as vehicles sped past, leaving behind a trail of dust and fumes. Children spilled out onto the road at times, too close to speeding vehicles.

The residents claimed they had been living at the spot for over 25 years. "I was born here in 1996," said Sonya Kavithya, Manoj Wagari's cousin. "We



All I ask is that we be given a place to stay, so I can protect the children I have left.

**MANOJ WAGARI**, father of the deceased boys Ankush and Arjun Wagari

have an Aadhaar card, ration card, and voter ID with this address, Subhash Nagar," she said as Wagari's eight-year-old son, Mahesh, showed photos of his deceased younger brothers to other residents on his phone.

His father wondered whether there would be any justice for the death of his two sons. Kalidas Kolambkar, the local MLA, promised the family some compensation, but they had received nothing. Wagari also made two trips to the BMC's F North ward office after the incident but returned empty-handed both times. He was not even aware that the park supervisor, Patiram Vikram Yadav, appointed by the contractor Hiravati Enterprises, had been arrested.

By Friday, the BMC had also increased the height of the wall around the garden. The Wadala Citizens Forum had complained to the civic body multiple times about the low height of the wall which allowed miscreants free access to the garden, but nothing was done about it till after the fateful incident. The two deceased children had entered the garden by jumping over the wall, as reported by HT on March 19 and 20.

On Thursday, taking suo motu cognisance of these reports, the HC asked, "What is the price of a human life in this city?" Holding the civic body accountable, it said, "Are the so called 'budgetary constraints' of the BMC an answer to a failure to provide minimal safety precaution during civic works? There will be issues regarding civic responsibility, questions of negligence and financial responsibility as well, not just for individual officers but also for the corporation as a body."

Comments were sought from F North ward officer Chakrapani Alle, deputy municipal commissioner (gardens) Kishor Gandhi, and additional municipal commissioner (city) Ashwini Joshi, but none responded.