

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONAL BENCH AT PUNE
ORIGINAL APPLICATION NO. 25 OF 2023**

IN THE MATTER OF:

DILEEP B. NEVATIA

APPLICANT

VERSUS

UNION OF INDIA & OTHERS

RESPONDENTS

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APPLICANT IN PERSON

SHASHI DEEP, 5-A, WORLI SEA FACE, MUMBAI 400 030

MUMBAI

DATED: 7.12.2025

BEFORE THE NATIONAL GREEN TRIBUNAL

WESTERN ZONAL BENCH AT PUNE

ORIGINAL APPLICATION NO. 25 OF 2023

IN THE MATTER OF:

DILEEP B. NEVATIA

APPLICANT

VERSUS

UNION OF INDIA & OTHERS

RESPONDENTS

ADDITIONAL AFFIDAVIT OF THE APPLICANT TO BRING

ON RECORD OF THE FRAUD PLAYED BY RESPONDENT

NOS. 8 TO 12 IN THE HON'BLE HIGH COURT AND THIS

HON'BLE TRIBUNAL

MOST RESPECTFULLY SHOWETH:

1. That the present O.A. is filed in this Hon'ble Tribunal on 3rd March 2023. Soon thereafter, on or around 8th May, 2023 the Officers of Respondent Nos. 4 - BMC, G/South Ward, visited the Pan Har property in order to ascertain the unauthorised development in the said property, which is lying in CRZ-II



area and they recorded a large scale unauthorised construction in the Pan Har Property.

2. That immediately after the above inspection was completed i.e. on 18.4.2023 the Respondent Nos. 8 to 12, through their Architects filed an application on the online portal of BMC for retention of the unauthorised construction at Pan Har property, the copy whereof is filed by these Respondents with Writ Petition (Lod) No. 18045 of 2023 filed by them in the High Court at Page Nos. 381 to 587 and the said online "Proposal Status Flow" dated 18.4.2023 is annexed at Exhibit "I" to the Writ Petition at Page No. 550.

For the sake of convenience, the copy of the said online "Proposal Status Flow" dated 18.4.2023 is annexed hereto and marked as **Annexure A-1**.

3. That under the guise of retention of the unauthorised construction at Pan Har property, the Respondent Nos. 8 to 12 sought approval of massive increase in FSI of the Pan Har property i.e. **against the maximum sanctioned FSI of**



1794.84 square meters approved under the plans dated 27.9.2001, retention of the unauthorised construction of Pan Har building was being sought for 5,465.49 square meters i.e. a massive increase of 300%. Thus, by their own admission the Respondent Nos. 8 to 12 reconstructed the Pan Har property with FSI of 4.0 against the approved 1.33.

The copies of the documents and plans submitted by Respondent Nos. 8 to 12 for retention of the unauthorised construction at Pan Har property form part of the Applicant's I.A. No. 150 of 2023 at Page Nos. 270 to 356.

4. That after inspection of the Pan Har premises, the Designated Officer, G/South Ward, issued Notice dated 24.5.2023 under Section 53-1 of the MRTP Act, to Respondent No. 10 to remove the unauthorised changes in the property Pan Har, 5, Worli Sea Face and restore it as per the sanctioned plan dated 27.9.2001. The copy of the said Notice is already filed by the Respondent Nos. 8 to 12 and it forms part of their High Court Writ Petition (Lod) No. 18045 of 2023.



The copy of the said Notice dated 24.5.2023 is annexed at Exhibit "G" to Writ Petition (Lod) No. 18045 of 2023 at Page Nos. 544 to 547.

5. That on 9.6.2023, BMC uploaded on its portal the updated "Proposal Status Flow" whereby rejecting the proposal submitted by Respondent Nos. 8 to 12 on various grounds, namely:-

"Remarks: Document Rejection : Documents Rejection. Technical Rejection : Technical Rejection. Sir, various requisite documents such as NOC from Estate Department, CRZ NOC, NAVAL NOC, Tax clearance certificate, Stability certificate from structural engineer & report etc as per EODB are not found attached. kindly reconcile & resubmit in consonance with DCPR 2034."

The copy of the said "Proposal Status Flow" updated on 9.6.2023, rejecting the proposal submitted by Respondent



Nos. 8 to 12, and printed by the Applicant from the BMC portal is annexed as Annexure A-17 to I.A. No. 150 of 2023 at page no. 347.

6. That the Respondent No. 4 - BMC has also filed the copy of the said "Proposal Status Flow" updated on 9.6.2023, rejecting the proposal submitted by Respondent Nos. 8 to 12, with its Affidavit in Reply dated 27.9.2023 at Page Nos. 1080 to 1102 i.e. Exhibit "C" at Page No. 1097.

For the sake of convenience, the copy of the said "Proposal Status Flow" updated on 9.6.2023, rejecting the proposal submitted by Respondent Nos. 8 to 12, is annexed hereto and marked as **Annexure A-2.**

7. That after their proposal for retention of the unauthorised construction at Pan Har property was rejected by BMC on 9.6.2023, on 4.7.2023 the Respondent No. 10 herein, on behalf of Respondent No. 8, verified and affirmed High Court Writ Petition (Lod) No. 18045 of 2023 whereby suppressing the crucial BMC document i.e. "Proposal Status Flow"



updated on 9.6.2023, rejecting the proposal submitted by Respondent Nos. 8 to 12, even though it was uploaded on BMC website on 9.6.2023 itself and is in the public domain since this date.

8. That in their High Court Writ Petition the Respondent Nos. 8 to 12 herein only filed the copy of the Notice dated 24.5.2023 under Section 53-1 of the MRTP Act (at Page No. 544 to 547 of Writ Petition) and the “Proposal Status Flow” dated 18.4.2023 (at Page No. 550) and thereby prayed for reliefs only in respect of the said Notice dated 24.5.2023.
9. That the Respondent Nos. 8 to 12 herein, in their Writ Petition deliberately did not file the “Proposal Status Flow” updated on 9.6.2023, whereby the BMC had rejected the proposal submitted by these Respondents, but instead filed the copy of the “Proposal Status Flow” dated 18.4.2023 in order to mislead the Hon’ble High Court into believing that the regularisation application was still pending with BMC, so as to deliberately mislead the Hon’ble High Court and thereby



snatch an Order these Respondents were not entitled to in the first place.

10. That by Order dated 11.7.2023 passed with consent of the parties, the Hon'ble High Court disposed off Writ Petition (Lod) No. 18045 of 2023 with the following directions:-

- “(i) Respondent No. 4 - Executive Engineer, (BP), BMC is directed to decide the regularization application dated 26th May, 2023 filed by the Petitioner, which was received by the Commissioner on 31st May, 2023 at the earliest, in accordance with law by giving opportunity of hearing to the Petitioner.
- (ii) We direct that, if felt necessary by the Petitioner, the Petitioner shall be permitted to file additional documents, if any.
- (iii) We further direct that the final order that would be passed by Respondent No. 4 in pursuance of these directions shall be communicated in writing to the Petitioner.



- (iv) We further direct that till the time decision is taken on the regularization application of the petitioner, no coercive action shall be taken against the Petitioner in pursuance of the impugned show cause notice.
- (v) We further direct that in case the final decision to be rendered by Respondent No. 4 goes against the Petitioner, no coercive action shall be taken against the Petitioner for a further period of two weeks from the date of receipt of the communication of such an order by the Petitioner.

The copy of the aforesaid High Court Order dated 11.7.2023 is annexed to the Writ Petition copy at Page Nos. 565 to 567.

For the sake of convenience, the copy of the said Order dated 11.7.2023 is also annexed hereto and marked as **Annexure A-3.**

11. That from a reading of the aforesaid Order dated 11.7.2023 it is abundantly clear that:-



- (a) The Hon'ble High Court was made to believe that the regularization application, which was received by the Commissioner on 31st May, 2023, was still pending with the Respondent No. 4 - Executive Engineer, (BP), BMC and therefore the Hon'ble High Court directed that the same be decided at the earliest. This makes it abundantly clear that neither the Petitioners therein nor the Respondents therein informed that Hon'ble High Court that the regularization application was already rejected on 9.6.2023 itself.
- (b) The Hon'ble High Court further directed that till the time decision is taken on the regularization application of the petitioner, no coercive action shall be taken against the Petitioner in pursuance of the impugned show cause notice. This evidently goes to show that the Hon'ble High Court had no knowledge whatsoever that the regularization application was already rejected on 9.6.2023 as otherwise it would not have passed such directions.



(c) The Hon'ble High Court's further directed that in case the final decision to be rendered by Respondent No. 4 goes against the Petitioner, no coercive action shall be taken against the Petitioner for a further period of two weeks from the date of receipt of the communication of such an order by the Petitioner. This evidently goes to show that the Hon'ble High Court was completely unaware that the final decision had gone against the Petitioner on 9.6.2023 itself and the further period of two weeks had already lapsed on or around 24.6.2023 i.e. much before filing the Writ Petition on 4.7.2023 or thereabout.

12. That after obtaining the Order dated 11.7.2023 in Writ Petition (Lod) No. 18045 of 2023, which in the first place was obtained by deliberately misleading the Hon'ble High Court and wilfully suppressing the fact that the regularization application was already rejected on 9.6.2023 itself, the Respondent Nos. 8 to 12 herein have over the last two years



continued to perpetuate further fraud on this Hon'ble Tribunal as more particularly set out hereunder.

13. That on 2.8.2023 the present O.A. was listed before this Hon'ble Tribunal and the Advocates for Respondent Nos. 8 to 12 falsely claimed that that the matter of regularization of the additional construction made by him is already under consideration and the Hon'ble High Court is seized of the matter and therefore, this Tribunal should not entertain the present O.A., in as much as the regularization application was already rejected on 9.6.2023. In view of such statement, this Hon'ble Tribunal by its Order dated 2.8.2023 recorded that:-

“3. From the side of respondent Nos.8 to 12 – Project Proponents, our attention is drawn to the order passed by the Hon'ble High Court of Bombay in Writ Petition (L) No.18045 of 2023 (Hari Krishna Exports Private Ltd., through ITXS Director Vs. Municipal Corporation of Greater Mumbai through its Commissioner), dated 11.07.2023, wherein in paragraph No.3, it is recorded that in response to the show-cause notice, the petitioner has already filed regularization application dated 31.05.2023

under Section 53(1) of the MRTP Act. Therefore, till the time the application is decided by the Corporation, the Corporation is not expected to act upon the impugned show cause notice. In paragraph No.4 sub-clause (i) of the said order, respondent No.4 is directed to decide the regularization application dated 26.05.2023 filed by the petitioner, which was received by the Commissioner on 31.05.2023. Further our attention is drawn to sub-clause (v) of paragraph No.4 of the said order, which directs that in case the final decision to be rendered by respondent No.4 goes against the petitioner, no coercive action shall be taken against the petitioner for a further period of two weeks from the date of receipt of the communication of such an order by the petitioner.

4. Having drawn our attention to the above order, the learned counsel for Project Proponents submits that the matter of regularization of the additional construction made by him is already under consideration and the Hon'ble High Court is seized of the matter. Therefore, this Tribunal should not entertain the present Original Application as far as these constructions are concerned."



The copy of the aforesaid Order dated 2.8.2023 is annexed hereto and marked as **Annexure A-4**.

14. That it is evidently clear that the Respondent Nos. 8 to 12 deliberately misled this Hon'ble Tribunal into believing that even as on 2.8.2023 their regularization application dated 31.5.2023 was still pending with the Corporation, when the record shows that the said application was rejected on 9.6.2023 itself and information is uploaded in BMC portal i.e. "Proposal Status Flow" updated on 9.6.2023, rejecting the proposal submitted by Respondent Nos. 8 to 12, annexed as **Annexure A-2**.
15. That on 8.10.2024 the Respondent Nos. 4 and 7 submitted a Report dated 8.10.2024 (at Page Nos. 1242 to 1251) whereby admitting that there is a FSI violation of 1,423.39 square meters at Pan Har property.
16. That Respondent No. 4 further informed in the said Report dated 8.10.2024 that after issuance of Notice under Section 53(1) of the MRTP Act, the Noticee had approached the



Hon'ble High Court vide Writ Petition (L) No. 18045 of 2023 against notice of this office Hon'ble High Court vide order dated 11.7.2023 directed that no coercive action shall be taken against Petitioner / Noticee till the time regularisation is decided.

17. That, Respondent No. 4 - BMC, while filing such Report dated 8.10.2024 was fully aware that the regularisation application was rejected by its own office long back i.e. on 9.6.2023 and the grace period of two weeks had also expired in June, 2023 itself. Yet, the Respondent No. 4 deliberately suppressed the crucial fact of rejection. Hence, this Hon'ble Tribunal was constrained to pass the following directions by its Order dated 15.10.2024:-

“5. In view of above-mentioned order, it is quite clear that since regularization application is pending before the respondent No.4, which has to be decided expeditiously in accordance with law and it is also clear that a direction is issued that till the decision is taken on the regularization application, no coercive action



shall be taken against the Petitioner, we have to await the process of the regularization application to be completed by the respondent No.4-MCGM and thereafter only, we can proceed in this matter. Therefore, we direct the respondent No.4-MCGM to inform us about the decision taken on the said application.”

The copy of the aforesaid Order dated 15.10.2024 is annexed hereto and marked as **Annexure A-5**.

18. That pursuant to the Order dated 5.2.2025 directing the Respondent No. 4 - MCGM to file an affidavit as to whether the application submitted by Respondent Nos. 8 to 12 is declined / rejected, within two weeks time, the Respondent No. 4 filed Affidavit dated 21.3.2025 (at Page Nos. 1252 to 1254) whereby admitting that:-

a) With respect to the above subject i.e. Plot bearing CS No. 730 of village Worli, a proposal for addition / alteration of entire building on the aforesaid plot was submitted on line by the owner through Architect / L.S. Shri. Jinish Narendra Soni under file No. P-16330/2023(730)/G/S /Worli on



31.05.2023. However, the said application was returned for want of documents i.e. NOC from Estate, CRZ NOC, Navy NOC, Tax Clearance Certificate and Stability Certificate of Structural Consultant etc on 09.06.2023.

b) The rejection of the proposal had already been informed to the Architect through online AutoDCR system. The copy of the same is hereto annexed and marked as Exhibit - 1.

c) This is further to submit that there is no offline system to inform Architect about the rejection of proposal. It is also to submit that the work is already carried out on site. Hence, the proposal involves regularization of work which is already carried out on site, however, regularization in CRZ area at this juncture is not allowed, information about same may be obtained from MCZMA authority.”

19. The aforesaid admission on part of Respondent No. 4 - BMC, alongwith the Exhibit - 1 annexed to its Affidavit i.e. “Proposal Status Flow” updated on 9.6.2023, rejecting the proposal submitted by Respondent Nos. 8 to 12 makes it indisputably clear that since over last two years the



Respondent Nos. 8 to 12 with covert support of BMC have been deliberately misleading the Hon'ble High Court and this Hon'ble Tribunal by falsely claiming that the regularisation proposal is still under consideration so as to somehow retain the illegal construction in CRZ-II area, and have these Respondents have therefore played fraud on the Hon'ble High Court and this Hon'ble Tribunal.

20. That the matter did not end there. On 3.12.2025 the present O.A. was listed for final hearing. It was only on the previous evening that the Advocates for Respondent Nos. 8 to 12 whereby seeking adjournment due to following reasons:-

“As you are aware, the captioned matter is listed at Sr. No. 11 on 3rd December 2025 as per the Advance Causelist before this Hon'ble Tribunal.

Please note that the proposal of Respondent Nos. 8 to 12 of the subject property is presently pending and under process with MCGM as per the proposal flow chart, a copy of which is attached herewith for ready reference, in terms of Order dated 11.07.2023 passed by the



Hon'ble Bombay High Court in Writ Petition (L) No. 18045 of 2023 and till the same is decided, no coercive action shall be taken with respect to the subject property.

In view of the above, we are seeking an adjournment on behalf of Respondent Nos. 8 to 12 in the subject matter.”

21. That at the hearing on 3.12.2025 the Advocates for Respondent Nos. 8 to 12 once again falsely contended that the Reply Affidavit dated 21.03.2025 of Respondent No.4 - MCGM clearly indicates that the matter is still under consideration before them, as all the documents, which are required to be submitted to Respondent No.4, have already been submitted by Respondent Nos. 8 to 12, as so recorded in Order dated 3.12.2025.

The copy of the aforesaid Order dated 3.12.2025 is annexed hereto and marked as **Annexure A-6**.

22. That the Reply Affidavit dated 21.03.2025 of Respondent No.4 - MCGM (Page Nos. 1252 to 1254) nowhere states that



the matter is still under consideration before Respondent No.4 or that all the documents, which are required to be submitted to Respondent No.4, have allegedly been submitted by Respondent Nos. 8 to 12. It is indisputably clear that a deliberate false statement was made on 3.12.2025 before this Hon'ble Tribunal in order to somehow and anyhow get the matter adjourned.

23. In the circumstances, the Applicant submits that this Hon'ble Tribunal may be pleased to take appropriate action against the Respondent Nos. 8 to 12 and expeditiously proceed with the final hearing of the present O.A.



APPLICANT IN PERSON

SHASHI DEEP, 5-A, WORLI SEA FACE, MUMBAI 400 030

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONAL BENCH AT PUNE
ORIGINAL APPLICATION NO. 25 OF 2023**



IN THE MATTER OF:

DILEEP B. NEVATIA

APPLICANT

VERSUS

UNION OF INDIA & OTHERS

RESPONDENTS

AFFIDAVIT

I, Dileep Nevatia, S/o Shri Balkrishna Nevatia, R/o Shashi Deep, 5-A, Worli Sea Face, Mumbai-400030 aged about 76 years, do hereby state on oath that the contents of this Additional Affidavit are true and correct to the best of my knowledge and belief.

[Signature]
DEPONENT

VERIFICATION:-

Verified on this the 7th day of December, 2025 that the contents above affidavit are true and correct. No part of it is false and nothing material has been concealed therefrom.

[Signature]
DEPONENT

Seen the Driving Licence

No. MH01 – 20090127799

DOI – 6.9.1967



[Signature]
R. R. MISHRA
B.Com LLB,
ADVOCATE & NOTARY GOVT. OF INDIA
Regd. No. 6226
Res. No. 502, Maruti Tower, 5th Floor,
Wing, Lower Parel, Mumbai-13.
Mobile: +91-98202 76589

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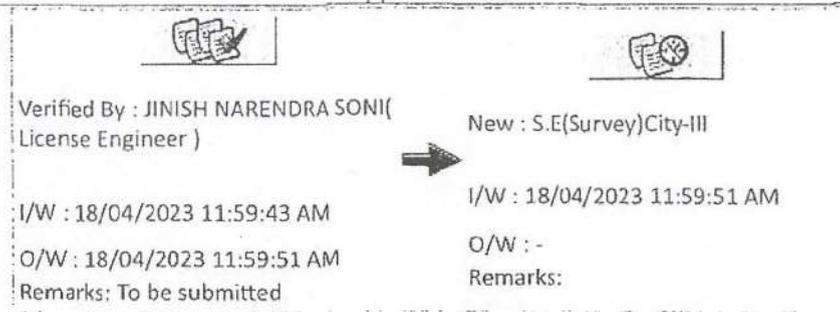
ANNEXURE A-1

160
1275
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Application Details

File No.	:	P-16330/2023/(730)/G/South/WORLI	Ward Name	:	G/South
SAC No.	:	NA,	CS No./ CTS No.	:	730
Title/Subject	:	Proposed Addition & Alteration of existing Residential building on plot bearing CS No. 730 of Village Worli, Division at Khan Abdul Gaffar Khan Road, Worli (Mumbai), 400 018, G/South Ward.			
Zone Name	:	City	TP Scheme	:	0
Plot No.	:	730	Gut No.	:	
Road/Street Name	:	Khan Abdul Guffar Khan Road	Inward Date	:	7/4/2023
Division / Village	:	2045			
CTS No.	:	730			
Architect/LE/SE Name	:	JINISH NARENDRA SONI			
Notice Letter No.	:	342/1172/23			
Structural Engineer	:	Hiten R Mahimtura			

Approval Flow



TRUE COPY


Exh - C

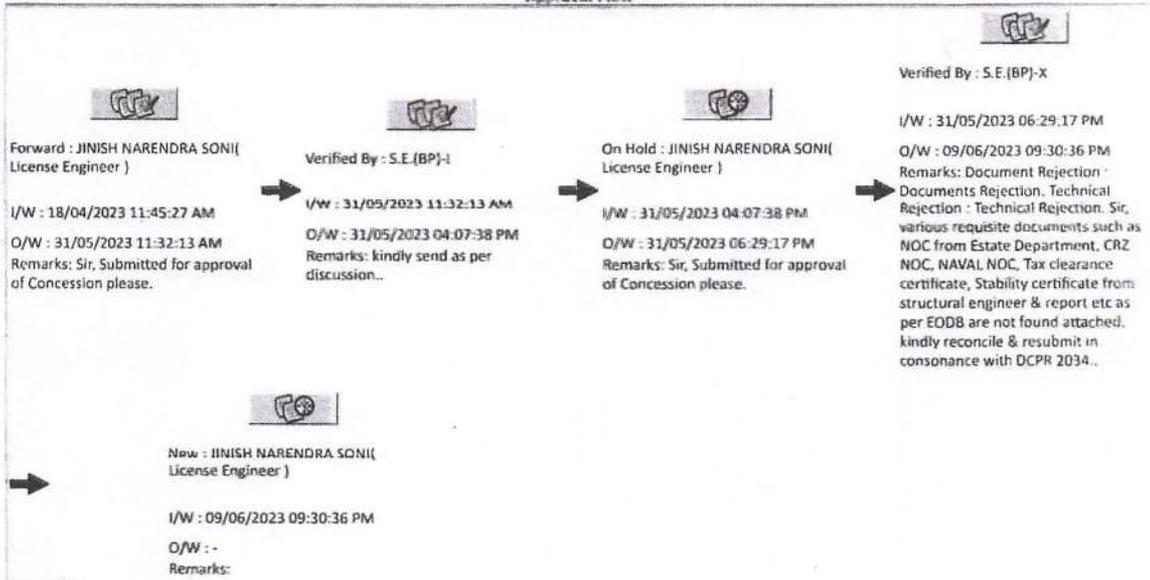
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ANNEXURE A-2

Application Details

File No. : P-16330/2023/(730)/G/South/WORLI/342/1/New
 SAC No. : NA,
 Title/Subject : Proposed Addition & Alteration of existing Residential building on plot bearing CS No. 730 of Village Worli, Division at Khan Abdul Gaffar Khan Road, Worli (Mumbai), 400 018, G/South Ward.
 Zone Name : City Ward Name : G/South
 Plot No. : 730 CS No./ CTS No. : 730
 Road/Street Name : Khan Abdul Guffar Khan Road TP Scheme : 0
 Division / Village : 2045 Gut No. :
 CTS No. : 730
 Architect/LE/SE Name : JINISH NARENDRA SONI Inward Date : 7/4/2023
 Notice Letter No. : 342/1172/23
 Structural Engineer : Hiten N Mahimtura

Approval Flow



TRUE COPY

[Handwritten signature]



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) No. 18045 OF 2023

Hari Krishna Exports Private
Limited, thr. ITXS Director

...Petitioner

Vs.

Municipal Corporation of
Greater Mumbai
thr. Its Commissioner

...Respondent

Dr. Milind Sathe, Senior Counsel a/w. Mr. Saket Mone a/w. Anchita Nair i/b. Vidhii Partners for Petitioner

CORAM : SUNIL B. SHUKRE &
RAJESH S. PATIL, JJ.

DATED : 11th JULY, 2023

PC.:

1. Heard learned counsel for the Petitioner , learned counsel for the Corporation and also learned counsel for Respondent No.5, who appear by giving notice on behalf of the respective respondents.
2. Rule. Rule is made returnable forthwith for final disposal by consent of parties.
3. In response to the impugned show cause notice, the Petitioner has already filed regularization application under Section 53(1) of the MRTP Act. This application is of the date of 31st May, 2023. So it

is quite clear that till the time the application is decided by the Corporation, Corporation is not expected to act upon the impugned show cause notice. It is also clear that an appropriate decision in accordance with law on the regularization application would have to be taken by the Corporation at the earliest.

4. That being so, we are of the view that purpose of this petition would stand served by issuing the following directions:

(i) Respondent No.4 is directed to decide the regularization application dated 26th May, 2023 filed by the Petitioner, which was received by the Commissioner on 31st May, 2023 at the earliest, in accordance with law by giving opportunity of hearing to the Petitioner.

(ii) We direct that, if felt necessary by the Petitioner, the Petitioner shall be permitted to file additional documents, if any.

(iii) We further direct that the final order that would be passed by Respondent No.4 in pursuance of these directions shall be communicated in writing to the Petitioner.

(iv) We further direct that till the time decision is taken on the regularization application of the petitioner, no coercive action shall be taken against the Petitioner in pursuance of the impugned show cause notice.

(v) We further direct that in case the final decision to be rendered

by Respondent No.4 goes against the Petitioner, no coercive action shall be taken against the Petitioner for a further period of two weeks from the date of receipt of the communication of such an order by the Petitioner.

(vi) Writ petition is allowed accordingly. Rule is made absolute in the above terms.

(RAJESH S. PATIL, J.)

(SUNIL B. SHUKRE, J.)

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ANNEXURE A-4

Item No.1

(Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

[THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)]

ORIGINAL APPLICATION NO.25 OF 2023 (WZ)**WITH****I.A. NO.110/2023 IN O.A. NO.25/2023****AND****I.A. NO.112/2023 IN O.A. NO.25/2023****AND****I.A. NO. 139/2023 IN O.A. NO.25/2023****AND****I.A. NO.150/2023 IN O.A. NO.25/2023**

Dileep B. Nevatia

.... Applicant

Versus

Union of India & Ors.

.... Respondents

Date of Hearing : 02.08.2023

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Applicant

: Applicant-in-person present

Respondents

: Mr. Rahul Garg, Advocate for R1
Mr. Anirudha Kulkarni, Advocate for R-2
Mr. Sameer Khale, Advocate for R-4
Mr. Saket Mone, Advocate along with
Ms. Anchita Nair, Advocate, representing
M/s Vidhi Partners for R-8 to R-12**ORDER**

1. From the side of the applicant, the applicant has appeared in person.
2. From the side of respondent Nos.8 to 12 – Project Proponents, learned counsel Mr. Saket Mone has appeared and has filed compilation in order to assist this Tribunal for resolving the dispute before us. The same is taken on record. Copy of the said compilation has already been served on the applicant.

3. From the side of respondent Nos.8 to 12 – Project Proponents, our attention is drawn to the order passed by the Hon'ble High Court of Bombay in Writ Petition (L) No.18045 of 2023 (Hari Krishna Exports Private Ltd., through ITXS Director Vs. Municipal Corporation of Greater Mumbai through its Commissioner), dated 11.07.2023, wherein in paragraph No.3, it is recorded that in response to the show-cause notice, the petitioner has already filed regularization application dated 31.05.2023 under Section 53(1) of the MRTP Act. Therefore, till the time the application is decided by the Corporation, the Corporation is not expected to act upon the impugned show cause notice. In paragraph No.4 sub-clause (i) of the said order, respondent No.4 is directed to decide the regularization application dated 26.05.2023 filed by the petitioner, which was received by the Commissioner on 31.05.2023. Further our attention is drawn to sub-clause (v) of paragraph No.4 of the said order, which directs that in case the final decision to be rendered by respondent No.4 goes against the petitioner, no coercive action shall be taken against the petitioner for a further period of two weeks from the date of receipt of the communication of such an order by the petitioner.

4. Having drawn our attention to the above order, the learned counsel for Project Proponents submits that the matter of regularization of the additional construction made by him is already under consideration and the Hon'ble High Court is seized of the matter. Therefore, this Tribunal should not entertain the present Original Application as far as these constructions are concerned.

5. The learned counsel for the Project Proponents has also drawn our attention to pages 266 to 267 of the paper-book, which is a letter dated 16.11.2021, written by the Director of the Project Proponents to the applicant, wherein it is mentioned that Managing Director of one of the Project Proponents met the applicant and discussed the pending matter

and requested the applicant that in view of future relationship as good neighbours, the applicant should withdraw the appeal and interim application, as it concerns with the property of which the Project Proponents had become the owner. It is also mentioned in the said letter that the Project Proponents had proceeded to pay the applicant as compensation/damage to the tune of Rs.1,25,00,000/- in lieu of fully, finally and irrevocably resolving and settling the disputes pertaining to the said property. The learned counsel for the Project Proponents submits that this amount has been paid to the applicant and settlement has been made by the applicant with the Project Proponents/answering respondents.

6. Therefore, the learned counsel for the Project Proponents submits that this matter stands finally concluded and concealing all these facts, the present Original Application has been filed by the applicant before this Tribunal.

7. The learned counsel has also drawn our attention to the judgment dated 05.12.2019 passed by the Hon'ble High Court of Bombay in Suit No.5111 of 1994, wherein in paragraph No.35, it is recorded as follows:

"Thus, the Plaintiff has not been able to establish from his witnesses that there has been any violation of the DCR, 1991....."

8. Having drawn our attention to the above finding of the Hon'ble High Court in the aforesaid Suit, which has been finally disposed of, it is apparent that even violation of CRZ Notification, 1991 was found to be not there and the same dispute is being raised by the applicant in the matter before us. Hence, it is submitted that, the application be treated as barred by the principle of *res judicata*.

9. In rebuttal, from the side of the applicant, it has been brought to our notice that in the Joint Committee report dated 25.07.2023, it is clearly mentioned that there are additional constructions made in the

property in dispute in basement, ground floor to 6th floor and terrace. It is stated by the applicant that these constructions are of the period subsequent to the settlement made by the applicant with the Project Proponents. Therefore, a fresh cause of action has arisen in favour of the applicant to bring the present Original Application. He has also drawn our attention to paragraph No.65 of the application, wherein it is mentioned by him that the unauthorized constructions is carried out after July, 2021. At this stage, learned counsel for the Project Proponents has pointed out that the settlement with respect to this property was made on 16.11.2021, copy of which has not been annexed by the applicant.

10. In response, the applicant has read out averments made in paragraph Nos.25, 26, 27, 28 and 29 of the Original Application, wherein it is mentioned that the unauthorized construction by respondent Nos.8 to 12 – Project Proponents is made by June, 2021.

11. We find ambiguity as to whether these additional constructions, which are said to have been made unauthorizedly by the Project Proponents, were actually made after 16.11.2021 or prior to that, because we are of the view that whatever settlement was made by the applicant with the Project Proponents before the Hon'ble High Court of Bombay and in accordance to which the dispute was settled in view of payment of the amount of Rs.1.25 crore, thereafter, if any fresh construction was found to have been made, then only fresh cause of action would be treated to have arisen in favour of the applicant.

12. The applicant has also pointed out Regulation 8 of the Development Control Regulations (DCR), 1991 and states that in the present case, since the construction has been made towards the seaward side, hence, there is violation of CRZ Notification, 1991.

13. The order dated 10.06.2022, passed by the Hon'ble High Court of Bombay in Appeal No.49 of 2020, which was filed by the applicant against the judgment passed in Suit No.5111 of 1994, has been annexed at pages 96 and 97 of the paper-book, wherein it is recorded that the appellant (present applicant) seeks leave to withdraw the Appeal and the Appeal was dismissed as unconditionally withdrawn. In view of above order in Appeal, it is argued by the learned counsel for the Project Proponent that this was only after the applicant having received an amount of Rs.1.25 Crore that he had withdrawn the said Appeal.

14. From the side of respondent No.4 – MCGM, learned counsel Mr. Sameer Khale has appeared and prays for three weeks' time. The same is allowed.

15. From the side of respondent No.2 – MCZMA, learned counsel Mr. Aniruddha Kulkarni has appeared and seeks two weeks' time to file reply. The same is allowed.

16. From the side of respondent No.1 – MoEF&CC, learned counsel Mr. Rahul Garg has appeared and states that MoEF&CC is a formal party in this O.A. and that he does not want to file reply.

17. From the side of respondent Nos.8 to 12, learned counsel Mr. Saket Mone has appeared and pointed out that he has filed I.A. No.139/2023 with the prayer that the present Original Application may be dismissed on the ground of principle of *res judicata* as well as on the basis of suppression of material facts. He has relied upon the judgment of the Hon'ble Supreme Court in ***Civil Appeal Nos.2407-2412 of 2021 (State of Uttar Pradesh and others Vs. Uday Education and Welfare Trust and others)***, wherein reliance has been placed by the learned counsel on paragraph No.99 and urged that credentials and bonafides of the applicant need to be verified. In this case, according to him, the applicant concealed various facts which should have been brought on

record. The applicant seeks three weeks' time to file the rejoinder. The same is allowed.

18. We direct learned counsel for respondent No.4 to submit before us a copy of the Circular dated 27.04.2017, issued by the Environment Department, which finds mention in the site visit report of the Committee dated 25.07.2023, by the next date.

I.A. No.150/2023 (WZ) :

19. This I.A. has been moved by the applicant with the prayer that respondent Nos.8 to 12 be restrained from using the property in question and the same should be directed to be sealed with appointment of a Receiver. According to the applicant, copy of this I.A. has been served upon the other parties. Therefore, objections, if any be filed within two weeks. This application (I.A. No.150/2023) will be decided at the time of final hearing of the Original Application.

I.A. No.110/2023 (WZ) :

20. In this I.A., the same relief, which has been prayed in I.A. No.150/2023, has been prayed for. The applicant does not want to press this I.A. Hence, this I.A. is rejected as not pressed.

I.A. No.112/2023 (WZ) :

21. The applicant has filed this I.A. with the prayer that an Architect be appointed to visit the Pan Har property. However, today, the applicant does not want to press this I.A., in view of the Joint Committee's report having been placed on record. Accordingly, this I.A. stands disposed of as not pressed.

22. We make it clear that this Original Application would be disposed of finally on the next date.

23. Put up this matter (O.A.) for next consideration on 29.09.2023.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

August 02, 2023
O.A. No.25/2023 (WZ)
npj

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ANNEXURE A-5

Item No.8

(Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

**Original Application No.25/2023 (WZ)
I.A. No.139/2023(WZ) & I.A. No.150/2023(WZ)**

Dileep B. Nevatia

.....Applicant

Versus

Union of India & Ors.

....Respondents

Date of hearing: 15.10.2024

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Applicant	:	Applicant in-person
Respondents	:	Mr. Rahul Garg, Advocate for R-1/MoEF&CC Mr. Aniruddha S. Kulkarni, Advocate for R-2/MCZMA Mr. Sameer Khale, Advocate for R-4/MCGM & R-7/Chief Fire Officer Mr. Saket Mone, Advocate along-with Ms. Anchita Nair, Advocate for R-8 to 12/PP

ORDER

1. From the side of the applicant, applicant has appeared in-person before us through Video Conferencing.
2. In compliance with our previous order dated 04.09.2024, the learned counsel Mr. Sameer Khale representing respondent No.4-MCGM and respondent No.7- Chief Fire Officer, Mumbai fire brigade has submitted a report dated 08.10.2024 before this Tribunal, stating therein that the joint inspection of the site in question was carried out along-with staff of B.P. (City) on 19.09.2024, during which following details were observed:-

Sr. No.	Details	BUA/FSI
1	Plot Area	1349.51 Sqr
2	Permissible Basic FSI	1.33
3	Permissible FSI as per Regulation 30 Table 12 of DCPR 2034 (Basic FSI-1.33+ Additional Premium 0.84+ Admissible TDR 003)	3.0
4	Permissible basic BUA	1794.85 Sqm
5	Permissible FSI as per regulation 30 of DCPR 2034	4048.52 Sqm
6	Existing BUA As per OCC granted	1784.80 Sqm
7	FSI Violation on site as per joint site visit.	1423.39 Sqm

3. In view of above, it is submitted by the learned counsel for respondent Nos.4 & 7 that the FSI Violation on site as per joint site visit was found to be 1423.39 sq. mtrs., which is being disputed by the applicant saying that the same is just double and it is close to 3,000 sq. mtrs. Therefore, applicant prays before us that the respondent Nos.4 & 7 may be directed to file a Plan of File No.16330/2023/(730)/G/Sough/Worli in order to ascertain the correct area, within four weeks.

4. In the above-mentioned report, it is also stated that the Hon'ble High Court of Bombay in Writ Petition (L) No.18045 of 2023 has passed following order on 11.07.2023:-

- "
1. Heard learned counsel for the Petitioner, learned counsel for the Corporation and also learned counsel for Respondent No.5, who appear by giving notice on behalf of the respective respondents.
 2. Rule. Rule is made returnable forthwith for final disposal by consent of parties.
 3. In response to the impugned show cause notice, the Petitioner has already filed regularization application under Section 53(1) of the MRTP Act. This application is of the date of 31st May, 2023. So it is quite clear that till the time the application is decided by the Corporation, Corporation is not expected to act upon the impugned show cause notice. It is also clear that an appropriate decision in accordance with law on the regularization application would have to be taken by the Corporation at the earliest.
 4. That being so, we are of the view that purpose of this petition would stand served by issuing the following directions:
 - (i). Respondent No.4 is directed to decide the regularization application dated 26th May, 2023 filed by the Petitioner, which was received by the Commissioner on 31st May, 2023 at the earliest, in accordance with law by giving opportunity of hearing to the Petitioner.

- (ii). *We direct that, if felt necessary by the Petitioner, the Petitioner shall be permitted to file additional documents, if any.*
- (iii). *We further direct that the final order that would be passed by Respondent No.4 in pursuance of these directions shall be communicated in writing to the Petitioner.*
- (iv). *We further direct that till the time decision is taken on the regularization application of the petitioner, no coercive action shall be taken against the Petitioner in pursuance of the impugned show cause notice.*
- (v). *We further direct that in case the final decision to be rendered by Respondent No.4 goes against the Petitioner, no coercive action shall be taken against the Petitioner for a further period of two weeks from the date of receipt of the communication of such an order by the Petitioner.*
- (vi). *Writ petition is allowed accordingly. Rule is made absolute in the above terms."*

5. In view of above-mentioned order, it is quite clear that since regularization application is pending before the respondent No.4, which has to be decided expeditiously in accordance with law and it is also clear that a direction is issued that till the decision is taken on the regularization application, no coercive action shall be taken against the Petitioner, we have to await the process of the regularization application to be completed by the respondent No.4-MCGM and thereafter only, we can proceed in this matter. Therefore, we direct the respondent No.4-MCGM to inform us about the decision taken on the said application.

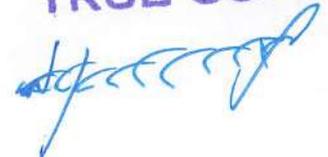
6. We direct the Registry to fix this matter for further consideration tentatively on 05.02.2025, as prayed by the applicant.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

October 15, 2024
Original Application No.25/2023 (WZ)
I.A. No.139/2023(WZ) & I.A. No.150/2023(WZ)
P.Kr

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ANNEXURE A-6

Item No.11

(Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

[THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)]

**ORIGINAL APPLICATION NO.25 OF 2023 (WZ)
I.A. NO.139 OF 2023 (WZ) & I.A. NO.150 OF 2023 (WZ)**

Dileep B. Nevatia

.....Applicant

Versus

Union of India & Ors.

....Respondents

Date of hearing: 03.12.2025**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. SUJIT KUMAR BAJPAYEE, EXPERT MEMBER**

Applicant : Applicant in-person.

Respondents : Mr. Om Shankar Shrivastav, Advocate for R-1/MoEF&CC
Mr. Aniruddha S. Kulkarni, Advocate for R-2/MCZMA
Mr. Sameer Khale, Advocate along-with
Mr. Shubham Rathod, Advocate for R-4/MCGM &
R-7/Chief Fire Officer
Ms. Anchita Nair, Advocate h/f
Mr. Saket Mone, Advocate for R-8 to 12

ORDER

1. Learned counsel Mr. Sameer Khale, appearing for Respondent No.4-MCGM, seeks additional 8 days' time to file clear affidavit, indicating therein as to whether regularization sought by the Private Respondents-Respondent Nos.8 to 12 has been finally decided or not? We grant him the said time with a direction that a copy of the same be served upon all the other parties.

2. Applicant, who has appeared in-person, has drawn our attention to the order dated 08.04.2025 passed by this Tribunal in the present Original Application, wherein in para no.3, it is recorded that, a proposal

for addition/ alteration of entire building on the plot bearing C.S. No.730 of Village Worli has been declined.

3. From the side of Respondent Nos.8 to 12- Private Respondents, learned counsel Ms. Anchita Nair, holding brief of learned counsel Mr. Saket Mone, has appeared and states that the reply affidavit dated 21.03.2025 of Respondent No.4- MCGM clearly indicates that the matter is still under consideration before them, as all the documents, which are required to be submitted to Respondent No.4, have already been submitted by Respondent Nos.8 to 12.

4. Let this matter be placed for consideration of the reply affidavit to be submitted by Respondent No.4 on 11.12.2025.

Dinesh Kumar Singh, JM

Dr. Sujit Kumar Bajpayee, EM

December 03, 2025
ORIGINAL APPLICATION NO.25 OF 2023 (WZ)
I.A. NO.139 OF 2023 (WZ) & I.A. NO.150 OF 2023 (WZ)
P.Kr.

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