



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 4190 OF 2025
IN
WRIT PETITION NO. 7399 OF 2024

Nagesh S/o Narsimalu Gandewar ..APPLICANT

-VERSUS-

The State of Maharashtra
and others.

..RESPONDENTS

...

Mr. V.D. Salunke h/f Mr. B.N. Patil, Advocate for Applicant

Mr. A.V. Hon, Advocate for respondent nos.3 to 5 and 7 to 11

...

CORAM : ROHIT W. JOSHI, J.

DATE : 29th AUGUST, 2025

ORDER :

Not on board. On being mentioned, taken on board. The present application is filed on 29.03.2025 seeking injunction against respondent nos.3 to 6 and 7 to 11, restraining them from demolishing shop blocks, which form subject matter of the Writ Petition.

2. The principal dispute raised in the present petition is with respect to auction of these five shop blocks. The said five shop blocks were put to auction pursuant to a public notice dated 05.11.2023. The bids of respondent nos.7 to 11 were accepted. According to the petitioner, the auction process is not in accordance with law and lacks transparency.

Appeal preferred by the petitioner challenging the auction process came to be dismissed. The principal challenge in the petition is to the order dismissing the appeal preferred by the petitioner challenging the auction of five shop blocks.

3. As stated above, Civil Application is filed seeking injunction restraining the respondents from demolishing the shop blocks. This Civil Application, which was filed on 29.03.2025, came up for hearing for the first time on 16.04.2025. The contesting respondents sought time to file reply. Vide order dated 16.04.2025, the matter was ordered to be posted for final hearing with consent of both sides. It is also ordered that civil application shall be decided along with Writ Petition. However, the Petition could not be heard and remained pending, although it was listed on 21.07.2025 and 11.08.2025.

4. The learned Advocate for the petitioner had sought circulation in the matter on 26.08.2025. The circulation was granted for 02.09.2025. However, Yesterday i.e. 28.08.2025, the learned Advocate for the petitioner made a motion before the learned Registrar (Judicial) for urgent orders on civil application pointing out that demolition work had commenced on 27.08.2025. Accordingly, the matter is

taken up for hearing today. The learned Advocate for the petitioner states that if the suit shops are demolished, the cause in the petition will be rendered infructuous.

5. Perusal of civil application, particularly, paragraph no.5 will demonstrate that according to the petitioner, work of demolition had commenced prior to 29.03.2025 when the application was filed. The learned Advocate for the contesting respondents has opposed the application stating that the petitioner does not have any locus to challenge the auction as also the action of demolition of shop blocks. He contends that the petitioner and his father were in possession of two of five shop blocks. The petitioner had filed Regular Civil Suit No.55/2012, seeking decree of perpetual injunction against dispossession without following due process of law. The learned Advocate submits that the said suit was dismissed on merits vide judgment and decree dated 12.01.2017 and that the petitioner has not challenged the said decree further. Apart from this, learned Advocate draws attention to paragraph no.10 of the reply dated 15.04.2025 that since height of the road abutting suit shops is increased, rain water flows directly into the suit shops, as a consequence of which the plinth level of shops is required to be increased along with height of

ceiling. It is stated in the reply that apart from this, no other changes are being made.

6. Since the Petition is not being heard on merits, it will not be appropriate to comment on the locus of the petitioner at this stage. However, it is a matter of record that the suit filed by the petitioner is dismissed on merits and the petitioner has no right over the suit property as of date, although right to challenge the auction may or may not be available. In the considered opinion of this Court, the apprehension expressed by the petitioner is taken care of by the statement in the reply affidavit that only plinth level and height of ceiling is being modified. The learned Advocate for respondent nos.3 to 5 and 7 to 11 states that the suit shop blocks are not being demolished as is alleged and merely plinth level and height of ceiling are being increased as a safety precaution in view of the increase in the height of road. Civil Application is disposed of in the above terms.

7. List Writ Petition on the given date.

8. The parties to act upon authenticated copy of this order.

[ROHIT W. JOSHI, J.]