

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 10833 OF 2025 (Sr. No. 915)

Atul Arun Kale and Another	...Petitioners
Versus	
The State of Maharashtra and Another	...Respondents

**WITH
WRIT PETITION NO. 10993 OF 2025 (Sr. No. 916)
WITH
WRIT PETITION NO. 10994 OF 2025**

Nuzrat Aziz Bobhde	...Petitioner
Versus	
The State of Maharashtra and Another	...Respondents

**WITH
WRIT PETITION NO. 6057 OF 2026 (Sr. No. 918)**

Sameer Abdul Aziz Bobde	...Petitioner
Versus	
The State of Maharashtra and Another	...Respondents

**WITH
WRIT PETITION NO. 9089 OF 2026 (Sr. No. 919)**

Seema Sudhir Acharya and Others	...Petitioners
Versus	
The State of Maharashtra and Another	...Respondents

Mr. Sumit Kothari, for the Petitioners in WP No. 10833 of 2025.
 Mr. Atharva Dandekar a/w. Mr. Gautam Jain, for the Petitioners in WP
 Nos. 10993 of 2025, 10994 of 2025, 6057 of 2026 and 9089 of 2026.
 Mr. N.R. Bubna i/b. Ms. Pooja Malik and Mr. Aryan Achra, for
 Respondent No. 2- BNCCMC.
 Mr. Rajesh Rekale (through VC), for Respondent Nos. 2 and 3 in WP

**VISHAL
SUBHASH
PAREKAR**

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Date: 2026.10.01
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No. 10833 of 2025. And Smt. Tanu Bhatia, for Respondent Nos. 2 and 3 in remaining petitions.

Smt. M.P. Thakur, AGP for the State in WP No. 10883 of 2025 and WP No. 10994 of 2025.

Smt. P.J. Gavhane, AGP for the State in WP No. 10993 of 2025.

Smt. G.R. Raghuwanshi, AGP for the State in WP Nos 9089 of 2026 and 6057 of 2026.

**CORAM : MANISH PITALE AND
SHREERAM V. SHIRSAT, JJ.**

DATE : 1st OCTOBER, 2026

P. C. :

1. These writ petitions are taken up together, as identical issues arise for consideration.

2. The petitioners are aggrieved by letters/notices issued by the respondent- Bhiwandi Nizampur City Municipal Corporation (“respondent Municipal Corporation”) threatening to take over the lands and structures of the petitioners for undertaking the project of road widening. In some of the petitions, the petitioners have also challenged follow-up notices issued by the respondent Municipal Corporation offering Transferable Development Rights (TDR) instead of monetary compensation for taking over the lands and structures of the petitioners for the purposes of road widening.

3. The learned counsel appearing for the petitioners submit that the high-handed manner in which the respondent Municipal Corporation has proceeded in the matter indicates that the rights of the petitioners under Article 300A of the Constitution of India have been violated. It is submitted that, as per statutory provisions, including the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (“the Act, 2013”), the respondent Municipal Corporation is required to first undertake the procedure of acquisition, determination of compensation by passing an appropriate award, disbursing the amounts, and then taking over possession of the subject lands and structures. Instead, according to the learned counsel for the petitioners, the respondent Municipal Corporation has rushed into issuing the impugned letters/notices that adversely affect the rights of the petitioners.

4. The learned counsel for the petitioners rely upon a recent order dated 29.07.2026 passed by this Court in writ petitions raising identical issues concerning the very same project of road widening of the respondent Municipal Corporation. It is submitted that this Court, after taking note of the position of law, directed that possession of the

lands and structures belonging to the petitioners therein could be taken only after determination and payment of compensation to the petitioners therein, in accordance with law. It is submitted that a similar relief may be granted to the petitioners in these writ petitions.

5. The learned counsel appearing for the respondent Municipal Corporation have tendered affidavits in reply today in Writ Petition No. 10833 of 2025 and Writ Petition No. 9089 of 2026. The said affidavits in reply are taken on record. In the other writ petitions, reply affidavits are already filed.

6. The learned counsel appearing for the respondent Municipal Corporation submit that the project of road widening is in the public interest, and early completion of the said project is in the interest of the general public. It is submitted that the respondent Municipal Corporation is bound to appropriately compensate the affected persons, but the project of road widening ought not to be delayed. It is submitted that this Court may consider directing possession of the lands being handed over to the respondent Municipal Corporation so that the project of road widening can be completed at the earliest. The exercise of determination of compensation and payment thereof, in accordance with law, shall be undertaken by the Municipal

Corporation. Reliance is sought to be placed on an order passed by a Division Bench of this Court wherein it was indicated that the lands and structures of the affected persons could be handed over and that compensation could be determined and paid to them within four weeks of taking over of possession.

7. We have considered the rival submissions.

8. We find that the present petitions are squarely covered as per the aforesaid order dated 29.07.2026 passed by this Court in **Writ Petition No. 1799 of 2026 (Kamla Devi Ramchandra Kumawat vs. The State of Maharashtra & Ors.)** and connected writ petitions. The said writ petitions also concerned the aforesaid action of the respondent Municipal Corporation in issuing such letters/notices to identically situated affected persons for taking over their lands and structures for the project of road widening. We are of the opinion that the present petitions can be disposed of in the manner in which the said group of writ petitions were allowed and disposed of.

9. For the sake of convenience, the relevant portion of the said order passed in the case of **Kamla Devi Kumawat** (supra) is reproduced below:

7] *We are of the opinion that this Court, while entertaining the present writ petitions, cannot be made a platform for considering the aspect of the extent to which the properties/structures of the Petitioners are authorized or otherwise. The fundamental question that arises for consideration is that when a public body, like the Respondent Municipal Corporation, intends to undertake the task of road widening in order to ensure that the concerned road is widened to the extent as approved in the development plan, as to what is the procedure to be followed in such circumstances. The stand of the Respondent Municipal Corporation clearly shows that it intends to undertake the task of road widening in the light of the width of the road approved in the development plan. This indicates that if the Respondent Municipal Corporation intends to undertake the task of road widening, it would necessarily have to acquire land/property to the extent that the widening of the road is satisfied in terms of the development plan.*

8] *In such circumstances, the Respondent Municipal Corporation would have to move an appropriate proposal before the Respondent State Government for exercising powers under the Maharashtra Regional and Town Planning Act, 1966 (MRTP Act) read with the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act of 2013). The requirement of law is that when such a proposal is moved, a specific amount is required to be deposited with the Respondent State/competent authority, so that the steps indicated under the Act of 2013 are duly undertaken for acquisition of properties to satisfy the task of road widening.*

9] *It is upon such proposal being moved and the powers under the MRTP Act and the Act of 2013 being exercised in accordance with law that the process of acquisition would stand triggered. This would entail the stepwise procedure contemplated under the Act of 2013 for granting an opportunity to the persons interested to raise objections as per the statutory provisions of the Act of 2013 applicable to acquisitions under the MRTP Act and after disposal of objections, further steps could be taken for determination of quantum of compensation, pronouncement of the award, offering compensation to the persons entitled to disbursement of such compensation and thereupon taking possession of the land for undertaking the task of road widening.*

10] In the present case, it appears that in its zeal to undertake the action of road widening, the Respondent Municipal Corporation has completely thrown to the winds the statutory requirements noted hereinabove. Admittedly, there is no proposal moved before the Competent Authority of the Respondent State for undertaking the process of acquisition. Instead, the impugned notices were issued to the Petitioners directly asking them to produce certain documents and indicating that the Petitioners would be thrown out of their properties and thereafter, in future if they were able to produce necessary documents, they could be offered compensation by way of TDR. This was followed with the subsequent action within a period of one month of alleging that the structures of the Petitioners were unauthorized and hence, they would be demolished within 24 hours for the purpose of road widening.

11] We find that the aforesaid impugned actions undertaken by the Respondent Municipal Corporation are wholly arbitrary and unsustainable. The contents of the impugned notices indicate that the Respondent Municipal Corporation is itself aware about the requirement of law to offer compensation to the affected persons, but the said Respondent has refused to follow the statutory requirements and instead a novel method of taking a shortcut to taking possession of lands/properties for the road widening project, has been undertaken. The Respondent Municipal Corporation cannot be permitted to trample upon the rights of the citizens in such a manner and even if it has to undertake the task of the development work of road widening, it has to be done in accordance with law. In the present case, the Respondent Municipal Corporation has nowhere indicated by its actions or the affidavits filed before this Court that the present case was being treated as a case where possession of the subject land/properties was to be taken under the emergency provisions.

12] We are of the opinion that the Respondent Municipal Corporation by insisting that the Petitioners would be compensated, if at all, only by way of TDR, violated the position of law clarified by the Full Bench judgment of this Court in the case of **Shri Vinayak Builders and Development Nagpur v. State of Maharashtra & Ors¹**. If the land owners or claimants do not give their consent,

1 [2022 (4) MHLJ 739]

compensation by way of TDR cannot be imposed upon them and the concerned authorities would necessarily be required to determine and pay monetary compensation to the Petitioners.

13] In such a situation, we find that the Respondent Municipal Corporation has utterly failed in justifying the notices and the follow up action taken against the Petitioners. The Supreme Court has held that although the right to property has no longer remained a Fundamental Right, under Article 300A of the Constitution of India, it is recognized as a Constitutional Right and Human Right, which cannot be trampled upon by the State and its agencies and instrumentalities.

*14] In this context, reference can be made to the judgment of the Supreme Court in the case of **Kolkata Municipal Corporation v. Bimal Kumar Shah**².*

15] In the said judgment, the Supreme Court has elaborately discussed various facets of the right to property and seven principles have been specified, which include the right to notice, right to be heard, right to a reasoned decision, the duty to acquire only for public purpose, the right of restitution or fair compensation, the right to an efficient and expeditious process and the right of conclusion. The impugned actions of the Respondent Municipal Corporation show that all the aforesaid principles have been breached and therefore, the Petitioners have made out a case in their favour for the writ petitions to be allowed.

16] The learned AGPs confirm the fact that till date, the Municipal Corporation has not forwarded any proposal for acquisition of land/properties for undertaking the said project of road widening.

17] In view of the above, the writ petitions are allowed in terms of prayer clauses (a) and (b) in all the petitions. Consequently, the notices dated 10/10/2025, issued by the Respondent Municipal Corporation and further notices dated 14/11/2025 issued to the Petitioners are quashed and set aside. The Respondents are directed to take recourse to the provisions of the Maharashtra Regional and Town Planning Act, 1966 and the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, acquisition and payment of compensation to the Petitioners before taking

2 [2024 (10) SCC 533]

possession for undertaking the exercise of road widening.

18] Writ petitions are allowed in the above terms.

19] Pending applications, if any, also stand disposed of.

10. We do not wish to repeat and reiterate what was held in the above-quoted portion of the said order. Since the petitioners in these writ petitions are identically situated, we intend to grant relief to them as was granted in the aforesaid bunch of writ petitions.

11. We find that in some of the writ petitions, the reliefs sought pertain to initial letters/notices issued by the respondent Municipal Corporation calling upon the petitioners to produce relevant documents pertaining to the subject lands and structures, followed up with further notices offering only TDR as compensation instead of monetary compensation. Writ Petition Nos. 6057 of 2026 and 9089 of 2026 have been filed by the petitioners seeking a direction against the respondents to follow the settled position of law to undertake acquisition and to pay compensation to the petitioners before taking over possession of their lands and structures for the road widening project. In these writ petitions also, reference is made to similar letters/notices issued by the respondent Municipal Corporation calling upon the petitioners to produce documents in the context of the

requirement of their lands and structures for the road widening project.

12. Considering the fact that the petitioners in these petitions are also found eligible for relief, as was granted to the petitioners in the aforesaid order dated 29.07.2026 passed in the case of **Kamla Devi Kumawat** (supra), we are inclined to allow these writ petitions in the following manner.

13. Writ Petition No. 10833 of 2025 is allowed in terms of prayer clauses (a) and (b-1), which read as under:

(a) Issue a writ of certiorari, or other appropriate writ, order or direction calling for the records leading to the issuance of the impugned notice dated 23.07.2025 (Exh. L to the petition) and after going through the legality, validity and propriety of the same, be pleased to quash the same and set it aside.

(b-1) Issue a writ of certiorari, or other appropriate writ, order or direction calling for the records leading to the issuance of the impugned notice dated 31.07.2025 (Exh. M1 to the petition) and after going through the legality, validity and propriety of the same, be pleased to quash the same and set it aside.

14. Writ Petition No. 10993 of 2025 and Writ Petition No. 10994 of 2025 both are allowed in terms of prayer clauses (a) and (c) of the said writ petitions, which read as follows:

Writ Petition No. 10993 of 2025 :-

(a) Issue a writ of certiorari, or other appropriate writ, order or direction calling for the records leading to the issuance of the first impugned notice dated 23.07.2025 (Exh. I to the petition) and after going through the legality, validity and propriety of the same, be pleased to quash the same and set it aside.

(c) Issue a writ of certiorari, or other appropriate writ, order or direction calling for the records leading to the issuance of the second impugned notice dated 31.07.2025 (Exh. K to the petition) and after going through the legality, validity and propriety of the same, be pleased to quash the same and set it aside.

Writ Petition No. 10994 of 2025 :-

(a) Issue a writ of certiorari, or other appropriate writ, order or direction calling for the records leading to the issuance of the first impugned notice dated 23.07.2025 (Exh. J to the petition) and after going through the legality, validity and propriety of the same, be pleased to quash the same and set it aside.

(c) Issue a writ of certiorari, or other appropriate writ, order or direction calling for the records leading to the issuance of the second impugned notice dated 31.07.2025 (Exh. L to the petition) and after going through the legality, validity and propriety of the same, be pleased to quash the same and set it aside.

15. Writ Petition Nos. 6057 of 2026 and 9089 of 2026 are allowed in terms of prayer clause (a), extracted below:

Writ Petition No. 6057 of 2026 :-

(a) This Hon'ble Court may be pleased to issue a Writ of

Mandamus or any other Writ, order or direction in the nature of Mandamus thereby directing the Respondent No.1 i.e. the State of Maharashtra to forthwith issue the requisite Notification/ Declaration under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 r/w. Section 78 of the M.M.C., Act, 1949 for acquisition of such part of the said plot/said premises being Municipal House No. 65 comprising of Ground floor situate at C.S. No. 2167 situated at Bhiwandi, Dist. Thane as may be required for the Road widening exercise from Bobde Chowk, Toheed Jewellers to Mandai and forthwith remit the amount of compensation to the Petitioner in respect Municipal House No. 65 comprising of Ground floor situate at C.S. No. 2167 situated at Bhiwandi, Dist. Thane.

Writ Petition No. 9089 of 2026 :

(a) This Hon'ble Court may be pleased to issue a Writ of Mandamus or any other Writ, order or direction in the nature of Mandamus thereby directing the Respondent No.1 i.e. the State of Maharashtra/the State Government to forthwith issue the requisite Notification/Declaration under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 r/w. Section 78 of the M.M.C., Act, 1949 for acquisition of such part of the said plots and/or said premises being Municipal House Nos. 34/1/G/2, 34/1/G/3, 34/1/G/5, 34/2, 34/3, 34/5, 34/6, 34/8, and 34/9 situated in "Acharya Building" comprised of Ground plus three floors situate at C.S. No. 2235, 2236 and 2237 situated at Bhiwandi, Dist. Thane as may be required for the Road widening exercise from Bobde Chowk, Toheed Jewellers to Mandai and forthwith remit the amount of compensation to the Petitioners in respect of the said plots and said premises.

16. Consequent upon quashing of the impugned letters/notices and the writ petitions being allowed in the aforesaid manner, the respondents are directed to take recourse to the provisions of the relevant statutes, including the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 to undertake the exercise of acquisition, determination of compensation, pronouncement of awards, and disbursal of compensation to the petitioners.

17. Upon such disbursal of compensation, the petitioners shall hand over the subject lands and structures to the respondent Municipal Corporation within four weeks of disbursal of the amount of compensation.

18. Needless to say, the petitioners would be at liberty to institute appropriate proceedings if they are aggrieved by the determination of quantum of compensation. However, handing over of possession shall not be delayed on that count.

19. It is further clarified that the order passed in these writ petitions has no bearing on any structures that may be found to be illegal on the subject lands.

20. The order passed today will not come in the way of the parties to proceed for acquisition by consent, considering the fact that the respondent Municipal Corporation is undertaking a project of road widening which is in the larger interest of the public.

(SHREERAM V. SHIRSAT, J.)

(MANISH PITALE, J.)