

ITEM NO.51

COURT NO.5

SECTION IX-A

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition for Special Leave to Appeal (C) No.33380/2025

[Arising out of impugned final judgment and order dated 02-04-2025 in FA No. 1307/2018 passed by the High Court of Judicature at Bombay]

MUNICIPAL CORPORATION OF GREATER MUMBAI

Petitioner(s)

VERSUS

REKHA PRAVIN NALAVADE &amp; ORS.

Respondent(s)

(IA No. 295241/2026 - MODIFICATION OF COURT ORDER & IA No. 101127/2026 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 12-10-2026 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J.B. PARDIWALA  
HON'BLE MR. JUSTICE K. VINOD CHANDRAN

For Petitioner(s) :

Mr. Siddarth Bhatnagar, Sr. Adv.  
Mr. Sakya Singha Chaudhuri- 1683, AOR  
Mrs. Shreya Dubey, Adv.  
Ms. Asmita Narula, Adv.  
Ms. Monalika Chaudhary, Adv.  
Mr. Nadeem Afroz, Adv.

For Respondent(s) :

Mr. Gaurav Agarwal, Sr. Adv.  
Mr. Kunal Cheema- 2250, AOR  
Mr. Shubham Chandankhede, Adv.  
Mr. Rushabh Tripathi, Adv.  
  
Mr. Chirag M. Shroff- 1525, AOR  
  
Mr. Ajit Pravin Wagh- 2799, AOR  
Ms. Nivedita Kushwaha, Adv.  
Mr. Ritik Ranjan, Adv.  
Mr. Avinish Kumar Saurabh, Adv.

Signature Not Verified  
Digitally signed by  
VISHAL ANAND  
Date: 2026.10.13  
18:15:11 IST  
Reason: [ ]

UPON hearing the counsel the Court made the following  
O R D E R

1. Leave granted.

2. Brihanmumbai Municipal Corporation (BMC) is before us challenging the impugned judgment of the High Court, which reversed the order of the Bombay City Civil Court. On brief facts, the BMC issued a notice for removal of unauthorized structure, which was encroaching a road. The 1<sup>st</sup> respondent filed a suit challenging the notice before the Bombay City Civil Court, which was dismissed, which stood reversed by the High Court. The High Court allowed reliefs A and B prayed in the suit, finding the notice issued to be bad in law and restraining the defendants from enforcing the impugned notice or demolishing or removing the shop in the suit premises.

3. Sri Siddarth Bhatnagar, learned Senior Counsel appearing for the appellant, by I.A. No.295241 of 2026 points out that the structure of the 1<sup>st</sup> respondent obstructs the passage of the main road and it is expedient that the same may be removed. It is his contention that the BMC has three alternate spaces of the same extent, one of which can be allotted to the 1<sup>st</sup> respondent subject to the final disposal of the appeal.

4. Sri Gaurav Agarwal, learned Senior Counsel for the respondents on the other hand submits that the building cannot be said to be on the middle of the road and the 1<sup>st</sup> respondent has been carrying on a 'Rent a Car', which is the only livelihood of the 1<sup>st</sup> respondent. It is also claimed that the said building was in possession of the 1<sup>st</sup> respondent as permitted by the Maharashtra Housing and Area Development Authority for long.

5. As of now, we are only concerned with the interim direction to be issued. We have seen photographs produced by the appellant herein and the 1<sup>st</sup> respondent. The fact remains that though the structure which is said to be in the possession of 1<sup>st</sup> respondent is not in the middle of the road, it definitely obstructs and restricts the passage of the widened road. In the circumstances, to adjust equities, we are of the opinion that the appellant/BMC should be permitted to immediately demolish the structure. The 1<sup>st</sup> respondent shall hand over vacant possession of the building within two weeks from today. If the same is not done, the BMC would be

entitled to take vacant possession after taking an inventory of any moveables found in the structure. BMC shall also be permitted to demolish the structure. However, subject to the final disposal of this appeal, the three options suggested by the BMC shall be offered to the 1<sup>st</sup> respondent and she shall be entitled to choose one of them. We make it clear that the 1<sup>st</sup> respondent's entitlement will be decided in this appeal, and the entitlement to continue occupying the alternate accommodation would be subject to that.

6. Let the records be called for. Respondent No.2 to file counter affidavit, if any.

7. List the matter on 02.12.2026.

(VISHAL ANAND)  
DEPUTY REGISTRAR

(POOJA SHARMA)  
COURT MASTER (NSH)