

**Order below Exh. 5 in R.C.S. 65/2026**  
**(Suresh Pawar and Anr. Vs. SMKC Corporation)**

Perused the application supported with affidavit and documents. Heard learned Counsel for the plaintiff. It is submitted that the area of 1250 sq.ft. situated at the eastern side of CTS No. 2590 is owned by plaintiff No. 1 as well as the area of 116.25 sq.mtrs. in the same CTS Number has been owned by plaintiff No. 1 and 2. Both these properties were purchased by the grandfather of present plaintiffs in the year 1987. At that time it was within the local limits of Kupwad Grampanchayat. Subsequently in the year 1998, the said area came under the authority of Municipal Corporation. Plaintiffs have obtained electricity connection as well as water connection from the defendant in that property. Since last 15 to 25 years, they are in the peaceful possession of said property. In all such circumstances, defendant without doing any local inspection as well as without any prior intimation issued 24 hours notice to plaintiffs on 10.02.2026 as per the Section 52, 53 and 54 of MRTP Act as well as Section 478 and 267(1) Maharashtra Municipal Corporation's Act. The designator officer does not have any authority to issue any such notice. So also, they have not visited the spot, did not carried out any panchnama and still issued 24 hours notice to plaintiffs. Therefore, such notice is *void-ab-intio* and because of that plaintiffs have been constrained to file this suit seeking voidability of such notice as well as perpetual injunction seeking restraint to defendant from causing obstruction to the peaceful possession of plaintiffs.

2. At Exh. 3/1, plaintiffs have filed City Survey extract of CTS No. 2590. The name of present plaintiffs is looking to be mentioned therein. At Exh. 3/2, plaintiffs have filed the sale-deed in favour of their grandfather executed in the year 1987. At Exh. 3/3, there is Assessment extract of suit property. At Exh. 3/4, there is Tax Assessment Receipt of suit property. At Exh. 3/5, there is water charges payment receipt of suit property and at Exh. 3/6, there is electricity bill of suit property. At Exh. 3/7, there is the notice issued by defendant Municipal Corporation to plaintiffs under Section 52, 53 and 54 of

M RTP Act and Section 478 and 267 (1) Maharashtra Municipal Corporation's Act.

3. Section 52, 53 and 54 basically deals with the power of Municipal Corporation to remove the unauthorised construction. Section 478 of Maharashtra Municipal Corporation's Act deals with the work of thing done without written permission of designated officer to be deemed as unauthorised and Section 267 of the same Act deals with the power of designated officer to direct removal of unlawful work. From the pleadings of plaintiffs it occurs that at this stage, plaintiffs are challenging the authority of designated officer i.e., Branch Engineer to issue the notice under said acts as well as not carrying out of due process before issuance of 24 hours notice. As discussed earlier, above mentioned sections are dealing with the unauthorised construction. Plaintiffs have filed the copy of sale-deed in favour of their grandfather at Exh. 3/2. However, it is merely a title document and no inference can be drawn about validity or legality of construction in the said property owned by plaintiffs. Apart from it, there are tax assessment receipts, water charges payment receipts and electricity connection bill payment receipts are available on record. Such document will only infer towards the longstanding possession of plaintiffs in the suit property. It will not *ipso-facto* validate the structure erected in the said property. Even if, as per submission of plaintiffs, the area of Kupwad subsequently came under the local limits of Municipal corporation. Still in such case, plaintiffs have sufficient opportunity to validate the said structure from Municipal Corporation till today. Still their occurs, no such document showing validity of such construction by Municipal Corporation. In such case, even if, the designated officer didn't have the authority to issue notice under MRTP Act and Maharashtra Municipal Corporation's Act as well as if he hasn't followed the due process as claimed by plaintiffs but still no blanket protection can be granted to the said structure erected by them. Looking at the above mentioned facts, I consider it necessary to hear Municipal Corporation without granting any interim injunction in favour of plaintiffs.

Learned advocate for plaintiffs also relied on the few citations such as *Ninad Shah Vs. Pune Municipal Corporation* reported in 2012 (4) ALL MR 898, *Kurmina Reddi Vs. Municipal Corporation, Vishakhapattanam* reported in 1978 Go Juris (AP) 157, *Municipal Corporation Greater, Bombay Vs. Sunbean High Tech Developers Pvt. Ltd.* reported in 2019 (16) SCR 971 and *Re:directions of demolition of structure* reported in 2024 SCC Online 3291. I have gone through all these citations however, this stage will be very early to comment on any of the ratio laid down by the Hon'ble High Court's and Hon'ble Apex Court in said citations as because all the facts are not prima-facie clear and defendant is yet to put his defence on the record. Therefore, without going into the details of said citations and looking at the discussion here in above I considered it necessary to issue notice to defendant Municipal Corporation before passing any order on interim injunction. Hence, I pass following order :

### **ORDER**

1. Issue notice to defendant as to why temporary injunction as prayed should not be granted. Notice returnable on 02.04.2026.
2. S.B. allowed, as per rules.
3. Plaintiffs to provide the copies of the plaint, documents annexed with Exh. 3 and T.I. application for defendant.

Sangli.  
Date : 20.03.2026.

(Onkar S. Shastri)  
5<sup>th</sup> Joint Civil Judge Junior Division,  
Sangli