

MHWS110007472025



Spl.C.S. No. 121/2025

Vimal Madanchand Deoda & Other Vs.
Municipal Council, Karanja.

ORDER PASSED BELOW EXH.5
(Passed On 13th August, 2026)

Present application has been filed by the plaintiffs/applicants under Order XXXIX Rules 1 & 2 read with section 151 of the Civil Procedure Code, 1908 for the relief of temporary injunction against defendant thereby restraining it or its servants, workers or anybody claiming through it from taking any steps to demolish the structure on the suit properties and also restraining defendant from doing any acts which will destroy the suit properties as described in detail in the para No.1 of the plaint in pursuance of notice dated 19.08.2025 and Order dated 22.09.2025 issued by Chief Officer of defendant No.1 till final decision of the suit.

2. Perused application, say of defendant at **Exh.18** and documents filed on record by plaintiffs and defendant. Also heard learned advocate for plaintiffs and learned advocate for defendant at length.

3. Ld. advocate for plaintiffs has submitted that suit property i.e. site or portion of the land bearing **Plot No.236 (now 236/3) from Nazul Sheet No.18D**, situated at Karanja within the Municipal limits of Karanja, admeasuring East West 11 Mt. and North South 12 Mt. having total area of **132 Sq.Mt. 1420.32 Sq.Ft.** has been given on rent to the plaintiff No.2 Kishor Mahavirchand Deoda, who is in peaceful possession of the same.

4. Ld. advocate for plaintiffs has further submitted that suit property i.e. site or portion of land bearing **Plot No.236 (now 236/1)**

from Nazul Sheet No.18D, situated at Karanja within the Municipal limits of Karanja, admeasuring East 3.32 Mt. West 3.65 Mt. and North 8.84 Mt. South 8.84 Mt. having total area of **30.85 Sq.Mt. 332.05 Sq.Ft.** has been given on rent to plaintiff No.1 Vimal Madanchand Deoda, who is in peaceful possession of the same.

5. Ld. advocate for plaintiffs has further submitted that on the suit properties as described in Para 1(A) and Para 1(B) of the plaint, the plaintiff No.1 and 2 had constructed the shop which is popularly known as Deoda Readymade. The said property is two story building consisting of ground floor and the first floor. The said property is situated within the main market of the Karanja. The said suit properties are located in the heart of the city. The names of plaintiff Nos.1 and 2 also came to be mutated with the defendant in its Municipal Record and the above site is given as the property No.374 (New) (Old Property No.359) as per the Assessment List for the year 2012-13 to 2015-16. The plaintiffs are also regularly paying the necessary Municipal Taxes to the defendant.

6. Ld. advocate for plaintiffs has further submitted that suit property described in Para 1(A) of the plaint is in possession of the plaintiff No.2 Kishor Mahavirchand Deoda. The suit property was given on lease to Mr. Laxminarayan Bhutada by M/s. Ramji Kannav Jinning and Pressing Factory Ltd., Karanja. The M/s. Ramaji Kannav Jinning and Pressing Factory Ltd., Karanja through its director Mr. Suresh Bhagwantrao Kannav on 09/06/1999 had given the suit property to the plaintiff No.2 Kishor and he was also authorized to make the construction with the permission of Mr. Bhutada. It is further submitted that one Mr. Nandkishor Laxminarayan Bhutada had on 10/06/1999 given the suit property to plaintiff No.2 Kishor and he was also authorized to make the construction with the permission of M/s Ramji Kannava Jinning and Pressing Factory Ltd.,

Karanja.

7. Ld. advocate for plaintiffs has further submitted that later on M/s. Ramji Kannava Jinning and Pressing Factory Ltd., Karanja had sold the suit property to Mr. Yunus Ayyub Ansari. On 20/01/2009 said Yunus Ayyub Ansari had executed the rent note of the suit property in favour of the plaintiff No.2 Kishor. The same is in continuation since 2003.

8. Ld. advocate for plaintiffs has further submitted that the suit property as described in Para 1(A) had been sold by Mr. Yunus Ayyub Ansari, Mr. Laxminarayana Shyamsundar Malpani and Mr. Brijmohan Shyamsundar Malpani to Mr. Jawahar Manakchand Deoda vide registered sale deed dated 01/10/2025. Said Mr. Jawahar Manakchand Deoda had given the consent to the plaintiff No.2 to continue with the possession of suit property. The plaintiff No.2 had also executed the said document as consenting party. Thus, the plaintiff No.2 Kishor is paying the rent to the landlord and he is enjoying the peaceful possession of the above suit property. The possession of the plaintiff No.2 over the suit property is absolutely legal and he is enjoying it peacefully.

9. Ld. advocate for plaintiffs has further submitted that suit property as described in Para 1(B), which is in possession of the plaintiff No.1 Vimal Madanchand Deoda had been given by M/s. Ramji Kannava Jinning and Pressing Factory Ltd., Karanja through its Director Mr. Suresh Bhagwantrao Kannav on rent to one Iliyas Haji Usman Ansari. It is further submitted that said Iliyas Haji Usman Ansari had made the construction on the said suit property. On 20/04/1999 Iliyas Haji Usman Ansari had sold the said constructed structure on the said suit property to plaintiff No.1 Vimal for

consideration amount of Rs.20,000/- vide registered sale deed dated 20/04/1999.

10. Ld. advocate for plaintiffs has further submitted that M/s. Ramji Kannava Jinning and Pressing Factory Ltd., Karanja through its Director Mr. Suresh Bhagwantrao Kannav had given the said suit property on rent to the plaintiff No.1 Vimal on 14/05/1999. Thus, the plaintiff No.1 is paying the rent to the landlord and he is enjoying the peaceful possession of the above property. The possession of the plaintiff over the suit property is absolutely legal and he is enjoying it peacefully.

11. Ld. advocate for plaintiffs has further submitted that the plaintiff No.2 had also taken the area on rent from M/s. Ramji Kannava Jinning and Pressing Factory Ltd., Karanja through its Director Mr. Suresh Bhagwantrao Kannav which is situated on the Western side of the suit property as described in Para 1(B) after the shop of Kevalram Dwarkadas Panjwani. The said site is popularly known as **Deoda Jewellers**. The said site is situated in the Plot No.236/1 Nazul Sheet No.18D. The defendant had given the permission to the plaintiff No.2 Vimal to make the construction on the said site of **Deoda Jewellers**.

12. Ld. advocate for plaintiffs has further submitted that on 28/12/2001, the plaintiff No.1 Vimal had applied to the defendant along with all the maps and documents to grant permission to make the construction on the suit property as described in Para 1(B) of the plaint. The said application along with all the documents were also received by the defendant. However, the defendant had not given any response to the said application.

13. Ld. advocate for plaintiffs has further submitted that on 19/06/2002, the plaintiff No.2 Kishor had also applied to the

defendant along with all the maps and documents to grant permission to make the construction on the suit property as described in Para 1(A) of the plaint. The said application along with all the documents were also received by the defendant. However, the defendant had not given any response to the said application as well.

14. Ld. advocate for plaintiffs has further submitted that as such, the defendant had neither allowed nor refused the permission for the construction as per the said applications of the plaintiffs. It is well settled principle of law that after making the application for permission to make construction, if the permission for construction is neither allowed nor refused within the period of 60 days from the date of application, in that event it is presumed that defendant had given deemed permission for the construction to the plaintiffs. The plaintiffs had completed the construction of the shops after applying to the defendant in the year 2002 and 2001 respectively. Thus, the defendant had given the deemed permission to the plaintiff for the construction on the suit property. Therefore, the structure standing on the suit properties as described in para 1 are legal as the defendant had granted the deemed permission for the construction of the structures as per the applications dated 28/12/2001 and 19/06/2002.

15. Ld. advocate for plaintiffs has further submitted that thereafter on 25/06/2014 the defendant had issued the notice under section 53 of MRTP Act for the demolition of the structure to the plaintiff No.1 Vimal only. On 01/07/2014, the plaintiff No.1 had again given the reminder letter to sanction letter and map in view of the application made in the year 2001 and 2002 respectively. But the defendant had not given any letter. Therefore, on 23/07/2014, the plaintiff No.1 Vimal had applied to regularization of the existing

structure as per the provisions of section 53 of MRTP Act. The said application is received by the defendant on 24/07/2014 and no further action was taken on the said application.

16. Ld. advocate for plaintiffs has further submitted that the defendant had lodged the complaint with the Police Station, Karanja. The Police Station, Karanja on 10/12/2014 had registered crime against the plaintiff No.1 and Shekhar Purushottam Kannav. The criminal proceeding was registered with the Judicial Magistrate First Class, Karanja bearing RCC No. 54/2015. The plaintiff No.1 and Shekhar Purushottam Kannav were acquitted in the said proceeding on 07/10/2023. The Court had observed that the construction of the building is completed prior to the issuance of the notice dated 25/06/2014.

17. Ld. advocate for plaintiffs has further submitted that Shekhar Purushottam Kannav had filed the appeal against the acquittal bearing Criminal Appeal ST. No. 3084/2024 along with the application for condonation of the delay bearing Criminal Application No. 393/2024 before the Hon'ble High Court of Bombay, Nagpur Bench. The Hon'ble Bombay High Court on 15/01/2025 had rejected the delay condonation application and appeal as not maintainable.

18. Ld. advocate for plaintiffs has further submitted that on 20/08/2025 the plaintiff No.1 received the notice issued by the defendant bearing No. 2838/2025 dated 19/08/2025 under the provisions of Section 53 of MRTP Act and thereby they had intimated the plaintiffs that the construction of the plaintiff over the suit property is without permission. They further intimated that the plaintiffs should demolish the structure on the ground floor admeasuring 2.60 Mt. X 9.00 Mt. i.e. 23.40 Sq.Mt., 11.00 Mt. X 10.50 Mt. i.e. 115.90 Sq.Mt. on ground floor and 11.00 Mt. X 10.50 Mt. i.e. 115 Sq.Mt. on the first floor within the period of 24 hours from the

date of receipt of the notice or else the defendant will start the work of the demolition.

19. Ld. advocate for plaintiffs has further submitted that the said notice is illegal and nullity as the said notice is issued for the lesser period as contemplated under law. The defendant had not given any opportunity of hearing to the plaintiffs to put their case. Under such circumstances, the notice issued dated 19/08/2025 is illegal, nullity, void ab initio and against the principle of natural justice and hence, the same needs to be declared as null and void.

20. Ld. advocate for plaintiffs has further submitted that on 15/09/2025, the plaintiff No.1 had also moved an application before the defendant for not taking any steps to demolish the said structure and to retain the land, and not to act as per the notice. The plaintiff had also informed that the defendant had failed to prove the case before the JMFC Court and plaintiff No.1 is also acquitted by the Court. The said application is received by the defendant. In spite of this the defendant is adamant to act as per its illegal notice.

21. Ld. advocate for plaintiffs has further submitted that it is pertinent to note that the name of plaintiff No.2 Kishor is also mutated with the defendant. The defendant had also included the area of the construction 11.00 Mt. X 10.50 Mt. i.e. 115.90 Sq.Mt. On ground floor and 11.00 Mt. X 10.50 Mt. i.e. 115 Sq.Mt. On first floor in the said notice which belongs to the plaintiff No.2 Kishor. Defendant had not issued any kind of notice to plaintiff No.2 Kishor and no opportunity is given to the plaintiff No.2 Kishor to put his case before the defendant. It is further submitted that the defendant is bent upon to demolish the structure of the plaintiff No.2 without following the due process of law and principle of natural

justice.

22. Ld. advocate for plaintiffs has further submitted that the plaintiff had taken great pain for the construction of the suit property. The plaintiffs are running their business in the suit property. The plaintiffs are the law abiding citizens. The plaintiffs are regularly paying the municipal taxes of the suit properties since the year 2000-01.

23. Ld. advocate for plaintiffs has further submitted that on 22/09/2025 the defendant had issued the notice vide outward No. 3932/2025 to the plaintiff No.1 and had ordered to demolish the structure of the plaintiff No.1 on 23/09/2025 as described in the notice dated 19/08/2025. The said notice was given to the plaintiff on 22/09/2025 in evening. After perusal of said notice it seems that the said order of demolition is given on the threats and complaints of one Shekhar Purushottam Kannav.

24. Ld. advocate for plaintiffs has further submitted that the defendant had mis-interpreted the orders passed by the JMFC, Karanja and The Hon'ble Bombay High Court. The defendant is treating the structure of the plaintiffs over the suit property as illegal structure. As demonstrated above, the defendant had not made any spot inspection, no valid notice under section 53 of MRTP Act is given to the plaintiffs, the defendant is bent upon to demolish the structure of the plaintiffs over the suit property.

25. Ld. advocate for plaintiffs has further submitted that the plaintiffs had apprehension in the mind that the defendant will act as per the letter dated 19/08/2025 bearing outwards No.3656/2025 received by the plaintiff No.1 Vimal on 20/08/2025, and as per the letter dated 22/09/2025 bearing outward No. 3932/2025 received by the plaintiff No.1 Vimal on 22/09/2025 and will initiate the steps for

demolishing the structure on the suit property.

26. Learned advocate for plaintiffs has further submitted that thus the plaintiffs are having a strong prima facie case. The balance of convenience lies in their favour. If defendant is not restrained then there will be huge loss to the plaintiffs, therefore, it is necessary to restrain defendant temporarily from taking any steps for demolishing the structure on the suit properties and also to restrain defendant from doing any act which will destroy the suit property as per the letter dated 19/08/2025 received by the plaintiff No.1 Vimal on 20/08/2025, and as per the letter dated 22/09/2025 received by the plaintiff No.1 Vimal on 22/09/2025. Hence, learned advocate for plaintiffs has prayed for grant of this application by relying upon the following judgments of the Hon'ble Supreme Court and Hon'ble Bombay High Court.

- i) **Muddasani Venkata Narsaiah (D) Th. Lrs. Vs. Muddasani Sarojana, AIR 2016 SC 2250**
- ii) **Jaspal Kaur Cheema and Anr. Vs. M/s. Industrial Trade Links and Ors. etc., AIR 2017 SC 3995**
- iii) **Kishor s/o. Ramalu @ Rambhau Telang Vs. The Municipal Commissioner, Nagpur & Ors., 2016 (1) ALL MR 175**
- iv) **Sudhir M. Khandwala Vs. The Municipal Corporation of Greater Mumbai & Ors., 2010 (1) ALL MR 561**

27. On the contrary, learned advocate for defendant has argued that it is not disputed that the applications for permission to make construction on the suit properties were made by plaintiffs. But it is strongly denied that the defendant had not given any response to the said applications dated 28/12/2001 and 19/06/2002 respectively

filed by the plaintiff No.1 and 2. It is further submitted that it is strongly denied that the defendant had neither allowed nor refused the permission for the construction on the suit properties as per the applications of plaintiffs.

28. Learned advocate for defendant has further submitted that the contention of plaintiffs as to deemed permission for making construction on the suit properties is having no substance as the permission was refused to the plaintiff No.1 by the defendant on 28/03/2001 due to reservation of suit property for development and said fact has been suppressed by the plaintiffs from the Court. In spite of refusal of permission by the defendant, the plaintiff No.1 illegally constructed building on the suit property. The plaintiffs have suppressed said material fact from the Court. Therefore, the plaintiffs are not entitled for the relief of temporary injunction as they have not come before the Court with clean hands.

29. Learned advocate for defendant has further submitted that the Chief Officer of defendant i.e. Municipal Council, Karanja has issued legal notice dated 19/08/2025 under section 53(1)(a) read with section 152 of Maharashtra Regional and Town Planning Act, 1966 to plaintiff No.1 thereby intimating him to demolish illegal construction. However, despite service of said notice upon plaintiff No.1, he did not pay any heed to the request of defendant. Therefore, on 22/09/2025 after one month of said notice, the chief officer of defendant passed order to demolish the illegal construction on or before 23/09/2025 as per the powers conferred upon him under the provisions of Maharashtra Regional and Town Planning Act, 1966.

30. Learned advocate for defendant has further submitted that the plaintiffs are not the owners of suit properties and therefore, they have no right or locus standi to file instant suit along with present application for temporary injunction against the defendant.

Moreover, the illegal construction made by the plaintiff No.1 on the suit property without the permission of defendant can not be protected and also can not be regularized. Thus, plaintiffs have no prima facie case. No balance of convenience lies in their favour. No irreparable loss will be caused to them if present application for temporary injunction is rejected. Hence, learned advocate for defendant prayed for rejection of present application with heavy costs by relying upon the following judgments of the Hon'ble Supreme Court.

- i) **Rajendra Kumar Barjatya and Another Vs. U. P. Avas Evam Vikas Parishad & Ors. (Neutral Citation- 2024 INSC 990), (Civil Appeal No. 14604/2024 decided on 17/12/2024)**
- ii) **Kaniz Ahmed Vs. sabuddin & Ors. (Neutral Citation -2025 INSC 610) (Petition for Special Leave to Appeal © Nos.12199-12200/2025 decided on 30/04/2025)**

31. In view of above submissions of learned advocates for plaintiffs and defendant following points arise for my determination and I have recorded my findings thereon for the reasons discussed below.

Sr. No.	Points	Findings
1)	Whether plaintiffs/applicants are having prima-facie case?	In the negative.
2)	Whether balance of convenience lies in favour of plaintiffs/applicants?	In the negative.
3)	Whether irreparable loss would be caused to plaintiffs/applicants if the temporary injunction, as sought for, is not granted?	In the negative.

4)	What order ?	Application is rejected.
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REASONS

As to point Nos.1 to 3 :

32. It is pertinent to note here that plaintiffs are seeking temporary injunction against the defendant thereby restraining it or its servant from taking any action of demolition of alleged construction on the suit properties in pursuance of notice dated 19/08/2025 and order dated 22/09/2025 issued by Chief Officer of defendant i.e. Municipal Council. It is the main contention of plaintiffs that despite they had made applications dated 28/12/2001 and 19/06/2002 to the defendant for seeking permission to make construction upon the suit properties, defendant neither allowed said applications nor refused said applications and therefore, the plaintiffs made legal structure on the suit properties on the basis of deemed permission of defendant.

33. It is to be noted here that from the record, it prima facie appears that plaintiffs are the tenants of suit properties and they are not the owners of the suit properties. Moreover, the alleged notice dated 19/08/2025 and alleged order dated 22/09/2025 issued by the Chief Officer of defendant i.e. Municipal Council, Karanja are in respect of alleged illegal structure made by the plaintiff No.1 Vimal Deoda without the permission of defendant and as such, said notice and order are only confined to the plaintiff No.1. Therefore, the plaintiff No.2 has neither any locus standi nor has any right to file instant suit against the defendant.

34. It is further pertinent note here that from the record, it prima facie becomes clear that the plaintiffs have suppressed material fact from the Court about the refusal of permission for alleged

construction by defendant by falsely making aforesaid contention in their plaint. It is to be noted here that from the record, more particularly from the document filed by the plaintiffs themselves on record i.e. application dated 23/07/2014 which was made by plaintiff No.1 Vimal Madanchand Deoda to the Chief Officer of Municipal Council, Karanja for regularization of unauthorized construction, it prima facie appears that the plaintiff No.1 in said application had clearly mentioned that on 28/12/2001, he had made application for permission to make construction on the disputed site to the defendant by Municipal Council, Karanja, but the permission was refused by the defendant due to reservation on said land.

35. It is to be noted here that therefore, it becomes clear that since beginning, plaintiff No.1 was aware about the fact that his application for permission to make construction upon the disputed property was came to be rejected. Despite that, the plaintiff No.1 made alleged construction on the disputed site without permission. Now, plaintiff No.1 is falsely stating that he had made construction on the disputed site on the basis of deemed permission as permission was neither granted nor refused by the defendant in pursuance of his application dated 28/12/2001.

36. It is pertinent to note here that from the record, it becomes clear that the plaintiffs have not come before the Court with clean hands to seek the equitable discretionary relief of temporary injunction against the defendant i.e. Municipal Council, Karanja which is competent authority under the MRTP Act, 1966 to regulate the unauthorized construction. Moreover, it is a settled proposition of law that a person who does not come with clean hands and suppresses material facts is not entitled for any relief whatsoever.

37. It is further pertinent to note here that despite the fact that the plaintiff No.1 Vimal Deoda is not the owner of disputed property, he had put the signature on application dated 28/12/2001 as an owner of said property. Not only this, there was no signature of his landlord or real owner of disputed property on the said application thereby giving his consent to make said application for seeking permission for making construction on the suit property from the defendant i.e. Municipal Council, Karanja. Here, it will be appropriate to refer the judgment of Hon'ble Bombay High Court in the case of **Sulochana Dattatray Bavlekar Vs. Chief Officer, Mahabaleshwar Giristan Nagar Parishad and Others reported in 2018 (5) Mh.L.J. 175**, wherein in the similar facts and circumstances, the Hon'ble Bombay High Court has observed that the petitioner i.e. tenant Sulochana not disclosed said material fact that her status as a lessee is disputed, on the contrary, she signed on application form for permission as owner of suit property thereby clearly misleading the authorities. It is to be noted here that same thing also appears in the present matter at the hands of plaintiff No.1 as he had signed the said application dated 28/12/2001 as an owner of disputed property.

38. It would be appropriate to refer the judgment of Hon'ble Supreme Court in the case of **Rajendra Kumar Barjatya and Another**, as cited supra by learned advocate for defendant, wherein the Hon'ble Supreme Court has clearly observed that, *"we have made ourselves very explicitly clear that each and every construction must be made scrupulously following and strictly adhering to the rules and regulations. In the event of any violation, being brought to the notice of the courts, the same should be dealt with iron hands and any leniency or mercy shown to the person guilty of unauthorised construction would amount to showing misplaced sympathy."*

39. Apart from this, the Hon'ble Supreme Court in the case

of **Kaniz Ahmed** as cited supra by learned advocate for defendant, has observed in para Nos.6 and 7 of its judgment as under,

“6. The learned counsel appearing for the petitioner would submit that her client be given one chance to pray for regularisation of the unauthorised construction. We do not find any merit in such submission. A person who has no regards for the law cannot be permitted to pray for regularisation after putting up unauthorised construction of two floors. This has something to do with the rule of law. Unauthorised construction has to be demolished. There is no way out. Judicial discretion would be guided by expediency. Courts are not free from statutory fetters. Justice is to be rendered in accordance with law. We are at pains to observe that the aforesaid aspect has not been kept in mind by many State Governments while enacting Regularisation of Unauthorised Development Act based on payment of impact fees.

7. Thus, the Courts must adopt a strict approach while dealing with cases of illegal construction and should not readily engage themselves in judicial regularisation of buildings erected without requisite permissions of the competent authority. The need for maintaining such a firm stance emanates not only from inviolable duty cast upon the Courts to uphold the rule of law, rather such judicial restraint gains more force in order to facilitate the well-being of all concerned. The law ought not to come to rescue of those who flout its rigours as allowing the same might result in flourishing the culture of impunity. Put otherwise, if the law were to protect the ones who endeavour to disregard it, the same would lead to undermine the deterrent effect of laws, which is the cornerstone of a just and orderly society.”

40. So far as the judgments cited supra by the learned advocate for plaintiffs in support of his submission, are concerned, it clearly appears that with due respect, said judgments are not helpful to the plaintiffs in the present matter as the facts and circumstances of the cited cases are totally different from the facts and circumstance of present suit. Moreover, said judgments of Hon'ble Supreme Court and Hon'ble Bombay High Court will not come to the help of plaintiffs more particularly when plaintiffs have suppressed aforesaid material facts from the Court and they have also not come before the court with clean hands to seek the equitable and discretionary relief of temporary injunction.

41. Thus, considering the peculiar facts and circumstances of the present case and material on record, I hold that plaintiffs have not made out prima facie case. Plaintiffs have also not shown that balance of convenience lies in their favour. Moreover, they have not shown that irreparable loss will be caused to them if temporary injunction is rejected. Therefore, I think it just and proper to reject this application. Thus, I answer point Nos.1 to 3 in the negative.

As to point No.4 :

42. Considering all these aspects, I am of the opinion that, present application deserves to be rejected. Therefore, I pass following order.

ORDER

1. Present application is rejected.
2. Costs in cause.

Date – 13/08/2026.

(S. W. Thombre)
Civil Judge, (Sr.Dn.),
Karanja (Lad).

C E R T I F I C A T E

I affirm that the contents of this PDF file judgment/order are same word to word, as per original judgment/order.

- 1) Name of Stenographer :- D. V. Daware (Stenographer Grade-III)
- 2) Name of Court :- Civil Judge (Sr.Dn.), Washim.
- 3) Date :- 13/08/2026
- 4) Order signed by the :- 13/08/2026
presiding officer on
- 5) Order uploaded on :- 13/08/2026