

Judgment

: 1 :

L C Suit.1986 of 2008

MHCC040004682008



Presented on : 30-10-2008

Registered on : 31-10-2008

Decided on : 29-06-2026

Duration : Ys Ms Ds  
17 07 30

Exhibit No.62

IN THE COURT OF CITY CIVIL & SESSIONS COURT,  
AT DINDOSHI, BORIVALI DIVISION, MUMBAI.

LONG CAUSE SUIT NO.1986 OF 2008

**1. Bal Shakti Mitra Mandal Trust.**

A Public Trust registered under the Bombay Public Trust Act, 1950, having its registration No.E-19708 (Mumbai), having their registered office at Opp. Plot No.89, Ganpatram Dayma Road, Kherwadi Bandra (E), Mumbai-400051.

**2. Mr. Kailash B. Chawla**

Age: 41 years, Indian Inhabitant,  
Occupation: Service,  
Chairman of Bal Shakti Mitra Mandal Trust  
Residing at Plot No. 94, Kherwadi Road,  
Bandra (E), Mumbai-400051.

**3. Mr. Maherndra P. Chawla**

Age: 32 years, Indian Inhabitant,  
Occupation: Service,  
Residing at Plot No.125, Kherwadi Road,  
Bandra (E), Mumbai-400051.

**4. Mr. Sanjay T. Lokhande**

Age: 37 years, Indian Inhabitant,  
Occupation: Service,  
Residing at Plot No.90, Kherwadi Road,  
Bandra (E), Mumbai-400051.

**5. Mr. Omprakash Z. Chawla**

Age: 45 years, Indian Inhabitant,  
Occupation: Service,  
Residing at Plot No.94, Kherwadi Road,  
Bandra (E), Mumbai-400051.

**6. Mr. Premkumar B. Chawla**

Indian Inhabitant, Occupation: Service,  
Residing at Plot No.94, Kherwadi Road,  
Bandra (E), Mumbai-400051.

... Plaintiffs

**Vs.**

**1. The Municipal Corporation of Greater Bombay,**  
having their office at Mahapalika Building,  
Mahapalika Marg, Fort, Mumbai 400001.

**2. Naresh S. Tanwar**  
(Deceased)

**THROUGH HIS LEGAL HEIRS**

**2(a) Smt. Chandravati Shivchand Tanwar**  
Age: 61 years, Indian Inhabitant

**2(b) Smt. Kusum Naresh Tanwar**  
Age: 40 years, Indian Inhabitant

**2(c) Mr. Prathamesh Naresh Tanwar**  
Age: 16 years, Indian Inhabitant

**2(d) Ms. Manshi Naresh Tanwar**  
Age: 14 years, Indian Inhabitant

**2(e) Ms. Juhi Naresh Tanwar**  
Age: 11 years, Indian Inhabitant

Minors, represented by their real mother and  
Natural guardian Smt. Kusum Naresh Tanwar  
All are residing at Plot No.89, Kherwadi,

...Defendants

Ganpatram Daima Marg, Bandra (East),  
Mumbai-400 051.

**Appearance:**

**For the plaintiffs:** Advocate Shri J. N. Jayale.

**For the defendant no.1/MCGM:** Advocate Shri Akshay Badgujar.

**For the defendant nos.2(a) to 2(e):** Advocate Shri R. R. Sharma.

**CORAM : H.H. JUDGE CITY CIVIL COURT &  
ADDITIONAL SESSIONS JUDGE.  
SHRI B .D. PAWAR (C.R.NO.14)**

**Date : 29<sup>th</sup> June, 2026.**

**:: JUDGMENT ::**

The plaintiffs filed this suit for relief of perpetual injunction to restrain defendant No.1 from demolishing the suit structure without following due process of law. The suit pertains to shed admeasuring 15 x 50 square feet having height of 16 feet made with partly B.M. Walls and A.C. Sheet roof and Ganesh Temple located at opposite to plot No.89, Ganpatram Dayma Road, Kherwadi, Bandra (East), Mumbai 400 050, hereinafter described as “suit structure”. The facts of the suit are as follows:

2. That, prior to year 1983, on above address, the local people constructed Ganesh Temple and started performing *pooja* therein. The suit structure is used by the local people for public purpose. Since the year 1983, local people celebrate Ganesh Festival in the suit structure and have sought permission for erection of temporary mandap in front of suit structure for performing Ganesh *pooja* and religious functions. The plaintiff No.1 is trust registered under Bombay Public Trust Act and

plaintiff Nos.2 to 6 are its trustees. The plaintiff no.1 manages the activities of Ganesh temple.

3. It is the case of the plaintiffs that plaintiff No.1 has appointed priest to perform everyday *pooja*. The priest resides in the suit structure and has been issued ration card on the address of the suit structure. So also, electricity power is supplied to it by Reliance Energy Ltd.

4. It is case of the plaintiffs that some local people are high-handedly trying to take charge of the trust, but could not succeed in it. Hence, they gave false information to the local newspaper “Khabre Aaj Tak”. On the basis of said false information, Khabre Aaj Tak published inflammatory article in its newspaper. Hence, on 16.03.2008, plaintiffs lodged complaint with Asst. Police Commissioner, Zone 8 and forwarded its copy to Sr. Inspector of Police of Nirmal Nagar Police Station, the Home Minister and Ward Officer, H/East Ward. It was brought to the notice of officers of the defendant no.1 that the suit structure is in existence since last 25 years.

5. It is the case of plaintiffs that the local person interested in taking over the charge of the trust has lodged false complaint with officer of defendant No.1, H/East Ward. Therefore, whenever the officers of defendant no.1 came in the locality to initiate action against other unauthorized work, used to threaten to demolish the suit structure. On 02.10.2008, one Mr. Naresh Shivchand Tanwar came to suit structure, abused and threatened the trustees of Plaintiff No.1.

Therefore, on 04.10.2008, 08.10.2008 and 24.09.2008, the plaintiffs have lodged complaint with Dy. Chief Minister, Chief Minister and local M.L.A.

6. It is case of the plaintiffs that on 29.10.2008, three unidentified persons claiming to be officers of H/East Ward of BMC came to the suit structure, made various queries and warned the plaintiffs that they have received several complaints from various persons and authorities alleging that plaintiffs have carried out illegal structure and made unauthorized addition and alteration to the suit structure.

7. It is case of the plaintiffs that the suit structure is lying on Government land and is in existence prior to 1983. They have not raised unauthorized construction or made unauthorized addition or alteration. The suit structure is being managed and controlled by registered Public Trust and used for public purpose. The plaintiffs apprehend that at instance of persons, who have eyes on trust property and interested to take charge of the trust, the officers of defendant No.1 are likely to demolish the suit structure without giving notice and following due process of law.

8. It is the case of plaintiffs that on 29.10.2008, the officers of defendant No.1 came to the suit structure and while leaving therefrom threatened the plaintiffs that after 31.10.2008, at any time, they will demolish the suit structure without notice. Plaintiffs apprehend that defendant no.1 may demolish the suit structure without following due

process of law. Hence, plaintiffs filed this suit and claimed decree of perpetual injunction to restrain defendant No.1 from demolishing the suit structure without following due process of law.

9. The defendant No.1, though appeared in the suit, failed to file its written statement. Therefore, suit proceeded without written statement of defendant No.1. The Notice of Motion No.3740/2025 taken out by the defendant No.1 for taking its written statement is rejected vide order dated 17.01.2026.

10. The suit is resisted by defendant No.2 by filing his written statement at Exh.10. Defendant no.2 contended that he resides in plot No.89, Kherwadi, Ganpatram Daima Marg, Bandra (East), Mumbai- 400 051, which is opposite the suit structure. Defendant no.2 contended that unauthorized construction is made on the road known as Ganpatram Daima Marg and on storm water drainage line, which blocked the road and storm water drainage line.

11. Defendant no.2 further contended that the plaintiffs were served with notice under section 314 of MMC Act and Police protection was sought by defendant No.1 for demolition of suit structure. Due process of law has already been complied with by defendant No.1. However, plaintiffs have suppressed this fact due to which the suit is liable to be dismissed.

12. Defendant no.2 further contended that the officers of defendant No.1 are in collusion with plaintiffs being contractors and

developers. The temporary permission for Ganesh Utsav is used for protection of illegal structure consisting of ground plus one upper floor. It is used for temple, office, shops, storeroom and developers' office. Defendant No.1 vide letter dated 11.12.2007 informed him that entire construction opposite plot No.89 and 124, Ganpatram Daima Marg is made without permission and is unauthorized.

13. Defendant no.2 contended that illegal structure blocked approach road and storm water drainage line, causing damage, disturbance and flood in his property. Despite his lodging of various complaints, no action is taken against illegal construction. Hence, he filed writ petition No.39 of 2009 before Hon'ble Bombay High Court. Vide order dated 20.04.2009 the Writ Petition was disposed off.

14. Defendant no.2 contended that on 29.12.2007, Notice No.ACHE/10/AEH/27.12.2007 under section 314 of MMC Act is served upon the plaintiff No.1. Asst. Engineer H/East Ward vide his letter ACHE/009/AEM dated 28.12.2007 addressed to Inspector of Police, Nirmal Nagar Police Station sought police protection for demolition of suit structure scheduled on 31.12.2007. However, the suit structure is not demolished. As the due process of law was already followed by defendant No.1, suit is not maintainable and liable to be dismissed.

15. During pendency of the suit, defendant No.2 died and his legal representatives are brought on record as defendant Nos.2(a) to 2(e). By filing their written statement, defendant Nos.2(a) to 2(e) resisted the suit. They adopted contentions raised in written statement

filed by deceased defendant No.2. They further contended that during pendency of the suit, plaintiffs have extended the structure and made various additions and alterations. They contended that the plaintiffs also encroached upon the Hydrant Pipe meant to be used by Fire Brigade in case of fire. Plaintiffs also covered electric pole erected on footpath for street lighting. Hence, the suit is liable to be dismissed.

16. On rival pleadings of the parties my learned Predecessor framed issues below Exh.11. I heard arguments of Advocate Shri. J. N. Jayale for plaintiffs, Advocate Shri. Akshay Badgujar for defendant No.1/MCGM and Advocate Shri. R. R. Sharma for defendant Nos.2(a) to 2(e). Read written notes of arguments filed by Advocate Shri. Akshay Badgujar for Defendant No.1/MCGM. The issues framed and my finding thereon for reasons is as under:-

| <b>Sr. No.</b> | <b><u>ISSUES</u></b>                                                       | <b><u>FINDINGS</u></b> |
|----------------|----------------------------------------------------------------------------|------------------------|
| 1.             | Whether plaintiffs prove that suit premises is in existence prior to 1983? | No                     |
| 2.             | Are plaintiffs entitled to claim relief of permanent injunction?           | No                     |
| 3.             | What order?                                                                | Suit is dismissed      |

**:: REASONS ::**

17. The plaintiffs in order to prove their claim examined plaintiff No.5 Mr. Omprakash Z. Chawla as P.W.1 and relied upon following documentary evidence:-

| <b>EXHIBIT NUMBER</b> | <b>PARTICULARS</b>                                        |
|-----------------------|-----------------------------------------------------------|
| 15                    | Original certificate of registration bearing registration |



|    |                                                                                                                                                            |
|----|------------------------------------------------------------------------------------------------------------------------------------------------------------|
|    | No.E-19708 dated 08.10.2001, issued by the Charity Commissioner, Mumbai.                                                                                   |
| 16 | Temporary permission granted by the Municipal Corporation for erecting Mandap for religious purpose having reference No. WOH/E/9895/AEM, dated 06.09.1985. |
| 17 | Temporary permission granted by the Municipal Corporation for erecting Mandap for religious purpose dated 10.09.1991.                                      |
| 18 | Temporary permission granted by the Municipal Corporation for erecting Mandap for religious purpose, dated 29.08.1992.                                     |
| 19 | Temporary permission granted by the Municipal Corporation for erecting Mandap for religious purpose having reference No.WOH/E/12075/AEM, dated 17.09.1993. |
| 20 | Temporary permission granted by the Municipal Corporation for erecting Mandap for religious purpose having reference No.WOH/E/13329/AEM, dated 12.09.1994. |
| 21 | Temporary permission granted by the Municipal Corporation for erecting Mandap for religious purpose having reference No.WOH/E/11408/AEM, dated 12.09.1996. |
| 22 | Temporary permission granted by the Municipal Corporation for erecting Mandap for religious purpose having reference No.WOH/E/11449/AEM, dated 17.09.1997. |
| 23 | Temporary permission granted by the Municipal Corporation for erecting Mandap for religious purpose having reference No.WOH/E/9887/AEM, dated 24.08.1998.  |
| 24 | Temporary permission granted by the Municipal Corporation for erecting Mandap for religious purpose having reference No.WOH/E/14429/AEM, dated             |

|    |                                                                                                                              |
|----|------------------------------------------------------------------------------------------------------------------------------|
|    | 06.09.1999.                                                                                                                  |
| 25 | Temporary permission granted by the Municipal Corporation for erecting Mandap for religious purpose, dated 28.08.2000.       |
| 26 | Temporary permission granted by the Municipal Corporation for erecting Mandap for religious purpose, dated 06.09.2002.       |
| 27 | Temporary permission granted by the Municipal Corporation for erecting Mandap for religious purpose.                         |
| 28 | Original Ration Card bearing SD No.0640334, dated 21.12.2002.                                                                |
| 29 | Original electric bills in respect of old electric meter No.LF-1-2311723, Consumer No.E-08238367 for the month of May, 2003. |
| 30 | New electric meter No.LF-1-4283443, Account No. 102423073 for the month of December, 2005.                                   |
| 31 | New electric meter No.LF-1-4283443, Account No. 102423073 for the month of January, 2006.                                    |
| 32 | New electric meter No.LF-1-4283443, Account No. 102423073 for the month of December, 2009.                                   |
| 33 | Original Minutes of the meeting held on 29 <sup>th</sup> December, 2009.                                                     |

18. No evidence is adduced by defendant No.1/MCGM.

19. Defendant nos.2(a) to 2(e) examined Shivchand Mangalal Tanwar (D.W.1) as their witness and relied upon following documents:-

| EXHIBIT<br>NUMBER | PARTICULARS                                                                      |
|-------------------|----------------------------------------------------------------------------------|
| 55                | Power of Attorney executed by the defendant nos.2(a) and 2(b), dated 19.01.2017. |
| 56                | Power of Attorney executed by the defendant nos.2(a) and 2(b), dated 13.03.2018. |

**AS TO ISSUE NO.1**

20. Advocate Shri Jayale submitted that, the suit structure is located opposite plot no.89, Ganpatram Dayma Road, Kherwadi, Bandra(E), Mumbai. In the year 1983, local residents constructed the temple and started performing *pooja* therein. The plaintiff no.1 Trust manages the temple. The plaintiff no.1 on various occasions obtained permission from defendant no.1 for election of temporary mandap for celebrating Ganesh Utsav. According to those permissions, temporary mandap was erected in front of the Ganesh temple and Ganesh festival was celebrated. The plaintiffs have produced permissions obtained from defendant no.1.

21. Advocate Shri Jayale submitted that, plaintiff no.1 has appointed priest for performing *pooja* in Ganesh temple. The priest resides in the suit structure. Rationing card is issued to the priest on the address of suit structure. Electricity power is also provided in the suit structure. The plaintiffs have produced on record the ration card and electricity bills.

22. Advocate Shri Jayale submitted that, the plaintiff no.1 is a Public Trust, which manages the Ganesh temple. The temple is in existence prior to 1983. The said fact was also brought to the notice of officers of defendant no.1. Hence, the plaintiffs have proved that the suit structure is in existence prior to 1983.

23. Advocate Shri Badgujar submitted that the suit structure is

constructed on Government land without obtaining permission from Competent Authority. The suit structure is not in existence since the year 1983 as claimed by the plaintiffs. The plaintiffs failed to prove that suit structure is in existence prior to year 1983.

24. Advocate Shri R. R. Sharma submitted that plaintiffs have not produced documentary evidence to show that the temple is in existence prior to year 1983. On the contrary, plaintiffs' witness Omprakash Z. Chawla has admitted in his cross-examination that the property card of the suit structure is not in the name of plaintiff no.1. He also admitted in his cross-examination that the suit structure is not shown in the schedule one of the plaintiff no.1 Trust. In such circumstances, plaintiffs failed to show how the plaintiff no.1 is concerned with the suit structure.

25. Advocate Shri Sharma further submitted that in the year 2007, the temple is constructed on Ganpatram Dayma road and storm water drainage line. There is no evidence to show that the temple exist prior to 1983 as claimed by the plaintiffs.

26. Plaintiffs witness Omprakash Z. Chawla was asked in his cross-examination by advocate for defendant no.1 as to whether permission of BMC was obtained for construction of disputed structure, to which Omprakash Z. Chawla replied that he has not constructed the structure. Plaintiffs have not stated that it is plaintiff no.1, who constructed the temple. Plaintiffs vaguely pleaded that in the year 1983 local people constructed the Ganesh temple. Plaintiffs witness

Omprakash Z. Chawla had no knowledge regarding the construction of temple. Therefore, testimony of Omprakash Z. Chawla that temple is in existence prior to year 1983 cannot be believed upon.

27. The plaintiffs have produced temporary permissions for erection of mandap granted by defendant no.1. However, those do not prove existence of temple prior to year 1983. Plaintiffs witness Omprakash Z. Chawla has admitted that he do not know what is the survey number and CTS number of the land where the structure is situated. He also admitted in his cross-examination that the structure is not shown in the schedule one of the Trust. The electricity bills and the ration card do not prove the existence of structure prior to year 1983. However, existence of structure is not in dispute. Therefore, though the plaintiffs proved existence of structure opposite plot no.89, Ganpatram Dayma road, Kherwadi, Bandra(East), Mumbai, they failed to prove that the suit structure existed prior to year 1983. **Hence, I answer issue no.1 in negative.**

#### **AS TO ISSUE NOS.2 AND 3**

28. Advocate Shri Jayale submitted that at instance of persons, who are interested in taking over plaintiff no.1 Trust, the officers of defendant no.1 are threatening the plaintiffs for demolishing the suit structure without giving notice. Deceased defendant no.2 also made various complaints about the suit structure. On 29.10.2008, the officers of defendant no.1 came to the suit structure and threatened to demolish the suit structure without giving notice. Hence, plaintiffs filed this suit

to restrain defendant no.1 from demolishing the suit structure without following due process of law.

29. Advocate Shri Jayale submitted that once it is proved that there exists a structure, it cannot be demolished without following due process of law. In this case, the existence of suit structure is not in dispute. The officers of defendant no.1 are threatening to demolish the suit structure without following due process of law. Therefore, the plaintiffs have sought relief that defendant no.1 shall not demolish the suit structure without following due process of law. Plaintiffs witness Omprakash Z. Chawla stated about threats given by the officers of defendant no.1. Hence, plaintiffs have proved that defendant no.1 is intending to demolish the suit structure without following due process of law. Therefore, defendant no.1 may be restrained by order of perpetual injunction from demolishing the suit structure without following due process of law. Advocate Shri. Jayale, in support of his submission, relied upon following case laws.

**(1) The judgment of Hon'ble Bombay High Court in the case between Mr. Abdul Hasan Shaikh Mansuri Vs. Municipal Corporation of Mumbai & Ors., in First Appeal No.2426 of 2005.**

**(2) The judgment of Hon'ble Supreme Court in Writ Petition (Civil) No.295 of 2022.**

30. Advocate Shri Badgujar for the defendant no.1 submitted that plaintiffs without permission of Competent Authority have constructed the suit structure on Government land. The plaintiffs filed the suit without issuing notice as per Section 527 of MMC Act. Hence,

the suit is not maintainable.

31. Advocate Shri Badgujar submitted that notice or order passed under MMC Act cannot be challenged by filing civil suit. Therefore, this Court has no jurisdiction to grant relief as claimed by the plaintiffs.

32. Advocate Shri Badgujar submitted that the suit is filed without cause of action. Under the pretext of protecting the temple, the plaintiffs are trying to protect unauthorized structure raised on Government land. The plaintiffs failed to prove that defendant no.1 is trying to demolish the suit structure without following due process of law. Hence, suit is liable to be dismissed.

33. Advocate Shri Sharma submitted that, suit structure is constructed on Ganpatram Dayma road and storm water drainage line. Deceased defendant no.2 was informed by defendant no.1 that the structure is made without permission from defendant no.1. Therefore, the suit structure is unauthorized. The deceased defendant no.2 had produced letter of defendant no.1 on record. The plaintiffs were issued notice as per Section 314 of MMC Act for removal of the suit structure. However, the officers of defendant no.1 have not demolished the suit structure as they are in collusion with the plaintiffs.

34. Advocate Shri Sharma submitted that, since plaintiffs were served notice under Section 314 of MMC Act, the due process of law was already complied with by defendant no.1. The deceased defendant

no.2 had produced photocopy of the notice on record. Therefore, the suit is not maintainable.

35. Advocate Shri Sharma submitted that the suit structure is constructed on the road and on storm water drainage line. It blocks the road and storm water drainage line. However, the officers of defendant no.1 have not demolished the suit structure as they are in collusion with plaintiffs. Advocate Shri Sharma submitted that the plaintiffs are not entitled for any relief and suit may be dismissed.

36. It is argued by advocate Shri Badgujar that suit is not maintainable in view of Section 527 of MMC Act and this Court has no jurisdiction to try the suit in view of Section 515A of MMC Act. The defendant no.1 has not filed its written statement. Without filing written statement, defendant no.1 cannot be permitted to raise the ground of maintainability of the suit for not serving notice as per Section 527 of MMC Act. In this case, the plaintiffs have not challenged notice or order under Section 351 or 354A of MMC Act. On the contrary, deceased defendant no.2 contended that notice was issued by defendant no.1 as per Section 314 of MMC Act. In such circumstances, I am of view that arguments of advocate Shri Badgjuar on the point of maintainability of the suit and jurisdiction of this Court is without merit.

37. Considering the arguments from both sides, it needs to be seen as to where the suit structure is located. The plaintiffs in para 2 of the plaint have described the suit structure. However, they have not



mentioned survey number or CTS number of the land where the suit structure is located. Plaintiffs only averred that the structure is situated opposite plot no.89, Ganpatram Dayma road, Kherwadi, Bandra(E), Mumbai. Plaintiffs witness Omprakash Z. Chawla admitted in his cross-examination that he cannot tell the survey number and CTS number of the land where the suit structure is located. Plaintiffs have not produced property card of the suit structure on the record.

38. Defendant no.2 contended that the suit structure is constructed on Ganpatram Dayma road and storm water drainage line. Said contention of defendant no.2 is neither countered by plaintiffs by filing their rejoinder nor they amended the plaint for giving correct description of the suit structure. Plaintiffs witness Omprakash Z. Chawla admitted in his cross-examination that the disputed structure is adjacent to Ganpatram Dayma road. The rough map annexed with the plaint do not contain details as to the CTS numbers or survey numbers. The defendant no.2 has annexed rough sketch map with written statement, which shows that adjacent to plot no.89, there is Ganpatram Dayma marg. The suit structure is shown being constructed on said Ganpatram Dayma marg. It is argued for defendant no.1 that plaintiffs have constructed suit structure on Government land. However, defendant no.1 has also not given details of the land on which the suit structure is constructed.

39. The plaintiffs have filed this suit and claimed the relief of perpetual injunction. Hence, they are under obligation to give correct description of the suit structure as per Order 7 Rule 3 of the Civil

Procedure Code. However, plaintiffs have not given correct description of the suit property. Witness of defendant nos.2(a) to 2(e), Shivchand Tanwar (DW-1) stated that the suit structure is constructed on Ganpatram Dayma Marg and on storm water drainage line. I find no reason to disbelieve the testimony of DW-1 Shivchand Tanwar. Therefore, I am of view that the suit structure is constructed on public road and storm water drainage line.

40. In order to claim the relief of perpetual injunction, plaintiffs have to prove that the defendant no.1 is likely to demolish the suit structure without following due process of law. Plaintiffs pleaded that on 29.10.2008, the officers of defendant no.1 came to the suit structure and threatened them to demolish the suit structure without notice. Defendant nos.2(a) to 2(e) have produced certain documents with list at Exh.44. It includes notice dated 27.12.2007, issued to the plaintiffs as per Section 314 of MMC Act and letter address to Inspector of Police, Nirmal Nagar Police Station for providing protection for demolition scheduled on 31.12.2007. The defendant no.1 has not disputed those documents. Though, those documents are not exhibited being the photocopies, I am of view that those could not be overlook because those were also filed with written statement and plaintiffs have not denied that by filing rejoinder. Section 314 of MMC Act authorizes removal of structure in the public way. Therefore, the defendant no.1 has already followed the procedure for removal of suit structure by issuing notice under Section 314 of the MMC Act. Therefore, plaintiffs failed to prove that defendant no.1 is trying to demolish the suit structure without following due process of law.

41. I have gone through the judgment of Hon'ble Bombay High Court in the case between **Mr. Abdul Hasan Shaikh Mansuri Vs. Municipal Corporation of Mumbai & Ors.** In that case, the suit was filed seeking directions against the corporation to take action after following due process of law. In this case, the suit structure is constructed on public road and defendant no.1 has issued notice for its removal as per Section 314 of MMC Act. Therefore, due to distinction of facts, this case law is not applicable to this case.

42. I have gone through the judgment of Hon'ble Supreme Court in **Directions in the matter of demolition of structures, in Writ Petition (C) No.295 of 2022.** In that case, Hon'ble Supreme Court issued the direction for the procedure to be followed before taking action against the structures. Hon'ble Supreme Court, in para 6 of the judgment held that the directions issued are not applicable to unauthorized structure in public place such as road. In this case, unauthorized structure is constructed on public road. Therefore, this case law is of no help to the plaintiffs cause.

43. Plaintiffs failed to prove that the officers of defendant no.1 threatened to demolish the suit structure without giving notice. As procedure for removal of structure by issuing notice u/s 314 of MMC Act is already complied with, plaintiffs are not entitled for relief of perpetual injunction to restrain defendant no.1 from demolishing the suit structure without following due process of law. The suit is liable to be dismissed. The plaintiffs are liable to pay the cost of defendants and

**Judgment**

**: 20 :**

**L C Suit.1986 of 2008**

to bear their own. Hence **I answer issue no.2 in Negative and in answer to issue No.3**, I pass following order.

**ORDER**

1. L.C. Suit No.1986 of 2008 is dismissed.
2. The plaintiffs do pay the costs of defendants and bear their own.
3. Decree be drawn accordingly.
4. L.C. Suit No.1986 of 2008 is disposed off.

**(B. D. PAWAR)**

Judge City Civil Court,

Date: 29.06.2026

Borivali Div, Dindoshi, Mumbai.

Dictated on Computer on : 29.06.2026

Checked & Signed by HHJ on : 29.06.2026

|                                                                               |                                                                       |
|-------------------------------------------------------------------------------|-----------------------------------------------------------------------|
| “CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER” |                                                                       |
| Date : 29.06.2026<br>Time : 05.00 P.M.<br>UPLOAD DATE AND TIME                | Mr. Umesh G. Jadhav<br>(Stenographer Grade-I)<br>NAME OF STENOGRAPHER |
| Name of the Judge (With Court Room Number)                                    | SHRI. B. D. PAWAR<br>Court Room No.14                                 |
| Date of Pronouncement of JUDGMENT/ ORDER                                      | 29.06.2026                                                            |
| JUDGMENT/ORDER signed by P.O. on                                              | 29.06.2026                                                            |
| JUDGMENT/ORDER uploaded on                                                    | 29.06.2026                                                            |