

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6261 OF 2026

Vivek Haresh Dahitule .. Petitioner
V/S.
Chief Officer Pen Municipal Council .. Respondents
and Ors

Mr. Satish Muley, a/w Mosin Naik, a/w ZhoaiB Sayyed, for the Petitioner.
Ms. Tanu N. Bhatia, for Respondent Nos. 2 and 3- State.

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

DATE : 5TH MAY 2026.

PC:

1. The learned counsel for the petitioner submits that the issues being raised in this petition are identical to the issues raised in pending writ petitions before this Court.
2. Reference is made to the order dated 21/04/2026 passed in Writ Petition Nos. 5358 of 2026 and 5361 of 2026 and 5365 of 2026, wherein while issuing notice, this Court granted ad-interim relief of status quo.
3. It is highlighted that the petitioner in this petition is co-owner of the property with one Manoj Chandrakant Dahitule, who is the petitioner in Writ Petition No. 5365 of 2026 and in whose favour, by the said order dated 21/04/2026, ad-interim order is already granted.

4. In the order dated 21/04/2026 passed in Writ Petition No. 5358 of 2026 and connected petitions, we had observed as follows:

“ Heard learned counsel for the petitioners.

2. The petitioners are residents of Taluka Pen, District Raigad and they are aggrieved by actions undertaken by the respondent No.1 Pen Municipal Council. These petitions were urgently circulated in the light of a submission made on behalf of the petitioners that there was threat of dispossession of the petitioners from their structures (shops) located in Taluka Pen, District Raigad.

3. We are inclined to consider these petitions. We are also inclined to grant limited interim relief to the petitioners for the following reasons:-

A. The documents on record show that the petitioners were uprooted from their original properties in the light of such properties being utilized for construction of road as per the Town Planning Scheme approved in the year 1998 and they were allotted alternative properties wherein they are presently running their shops;

B. In December 2013, the respondent No.1 Pen Municipal Council issued notices for draft notification, proposing certain changes in the Town Planning Scheme. The petitioners immediately raised their objections to the proposed modifications. The said objections are still not decided;

C. In this backdrop, on 04.03.2026, the respondent No.1

Pen Municipal Council issued notices to the petitioners stating that possession of their structures shall be taken for road widening as their structures were obstructing such proposed widening of the road. It was stated therein that the petitioners could submit proposal for obtaining TDR / FSI in lieu of giving possession of the said structures;

D. As per Full Bench judgement of this Court in the case of Shree Vinayak Builders and Developers, Nagpur Vs. State of Maharashtra, 2022 (4) Mh.L.J. 739, the acquiring bodies cannot unilaterally thrust compensation in the form of TDR on land owners. The same can be done only by consent. Evidently, the petitioners herein are not consenting to compensation in terms of TDR / FSI;

E. The petitioners have sent representations to the respondents, including the respondent No.1 Pen Municipal Council, placing on record the chronology of events and proposing alternatives, including following the procedure for acquisition of land as per the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. There is no response to the said representations submitted by the petitioners.

4. Considering the aforementioned facts, we are of the opinion that the petitioners have made out a prima facie case in their favour for limited interim relief till the next date of listing.

5. In view of the above, issue notice, returnable on 30.06.2026.

6. Learned AGPs waive notice on behalf of respondent Nos.2 and

3- State. Humdast granted for respondent No.1.

7. The respondents shall file their reply affidavits within four weeks. Rejoinder affidavit, if any, be filed within two weeks thereafter.

8. In the meanwhile and till the next date of listing, status-quo, as on today, shall be maintained.”

5. Considering the fact that the petitioner in this petition is a co-owner of the property with the said Manoj Chandrakant Dahitule, we are inclined to consider the present petition and also to grant ad-interim relief as has been granted to the said similarly situated petitioner.

6. In view of the above, issue notice returnable on 30th June 2026. Tag with Writ Petition No. 5358 of 2026.

7. Learned AGP waives notice on behalf of Respondent Nos. 2 and 3. Humdast granted for service upon Respondent No. 1.

9. Reply affidavits on behalf of respondents be filed within four weeks. Rejoinder, if any, be filed within two weeks thereafter.

10. In the meanwhile, until the next date of listing, status quo as on today shall be maintained.

(SHREERAM V. SHIRSAT, J.)

(MANISH PITALE, J.)