

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CONTEMPT PETITION NO.333 OF 2025
IN
WRIT PETITION NO.10024 OF 2023**

D. Dahyabhai & Co. Pvt. Ltd. & Anr.Petitioners

Versus

State of Maharashtra & Ors.Respondents

Mr. Chirag Balsara a/w. Ms. Minal Chandnani i/b. Jaiwant Chandnani Associates for the Petitioners.

Mr. Sachin H. Kankal, AGP for Respondent No.1.

Mr. R.S. Apte, Senior Advocate i/b. Mr. Mandar Limaye for Respondent Nos.2 and 9.

Mr. Mandar Limaye for Respondent Nos.3 and 8.

**CORAM : RAVINDRA V. GHUGE
&
ABHAY J. MANTRI, JJ.**

DATE : 6th APRIL, 2026

P.C. :-

1. On 1st April, 2026, we revisited the earlier orders passed by this Court. A summary of the said orders, along with our brief observations, is set out in the order dated 1st April, 2026, which reads as under :

1. This matter had come up before this Court on a few occasions earlier, pursuant to an order of this Court (Coram : A.S. Gadkari and Kamal Khata, JJ.) dated 28th April, 2025 in Writ Petition No.10024 of 2023, and the subsequent order passed by the same Bench dated 27th June, 2025

on Interim Application No.9043 of 2025 filed by the Thane Municipal Corporation. The first order, which is the subject matter of the Contempt proceedings, was passed by the Single Judge Bench of this Court (Coram : Nitin W. Sambre, J.) on 25th November, 2022 in Appeal From Order No.1051 of 2019.

2. Even before this Bench, we had granted time on 23rd March, 2026 pursuant to the judgment dated 20th February, 2026. On 23rd March, 2026, as well as, on 27th March, 2026, we adjourned these proceedings. As the matter could not be called out on 30th March, 2026 due to paucity of time, the same is listed today.

3. The learned Senior Advocate representing the Corporation submits that the Corporation has not assailed the judgment of this Court dated 20th February, 2026 before the Hon'ble Supreme Court. He further submits, on instructions, that the Municipal Corporation is not aware whether the State has challenged the said judgment before the Hon'ble Supreme Court.

4. We have perused the orders passed by the earlier Bench on 28th April, 2025 and 27th June, 2025. We find that the Bench was on the verge of issuing a notice in the format prescribed under the Contempt of Courts Act. Yet, an opportunity was granted on 28th April, 2025 to the Corporation with the observation that "Orders passed by the Courts are meant to be followed and implemented, and not meant to be frustrated."

5. In the order dated 27th June, 2025, the same Bench recorded that "it is well-known fact that the orders of these Courts are being blatantly violated with impunity by the Officers of Thane Municipal Corporation ("TMC") thereby frustrating the

judicial process. If the functionaries of the State have started violating the orders of the Court, then less said the better.” The Court further recorded that “The obstinate stand adopted by the TMC is unwarranted and speaks volume.”

6. Considering the above, we are listing these proceedings tomorrow, i.e., 2nd April, 2026, as a last chance for the Corporation to produce before the Court, the Development Rights Certificate (DRC). In the event such a certificate is not produced, we will be constrained to initiate appropriate proceedings under the Contempt of Courts Act, as contemplated by the earlier Bench in April, 2025.

7. At the request of the learned Senior Advocate for the Corporation, these proceedings will be listed on 2nd April, 2026 at 3:00 p.m.

2. When this matter was heard on 2nd April, 2026, the learned Senior Advocate Mr. Apte appearing for the Corporation was instructed to cite a communication dated 1st April, 2026 issued by Ms. Anita Patil, Director of Sanjay Gandhi National Park, Borivali, Mumbai. Upon perusal of the said communication, we observed in paragraph no.5 of the order dated 2nd April, 2026 as under :

5. The learned Senior Counsel Shri Apte places on record a photostat copy of the communication dated 1st April 2026 issued by Ms. Anita Patil, Director of Sanjay Gandhi National Park, Borivali, Mumbai stating therein that the Forest

Department has approached the State for taking a decision as to whether a Review Petition should be filed or whether a Special Leave Petition (SLP) should be filed in relation to the Judgment dated 20th February 2026 in Writ Petition No.3205 of 2018 (The State of Maharashtra vs. D. Dayabhai and Co. Pvt. Ltd. & Ors.) and Writ Petition No.10024 of 2023 (D. Dahyabhai & Co. Pvt. Ltd. & Anr. vs. The State of Maharashtra & Ors.). The said photostat copy of the communication dated 1st April 2026 is marked as 'X-1' for identification.

3. Today, the learned Senior Advocate, on instructions, submits that the Forest Department has requested the State to take a decision as to whether it can be permitted to file a Review Petition before this Court, considering the judgment of this Court dated 20th February, 2026 in the main proceedings, viz., Writ Petition No.3205 of 2018 and Writ Petition No.10024 of 2023, or file an SLP before the Hon'ble Supreme Court.

4. The Petitioners have amended the Contempt Petition adding in the cause, the judgment of this Court dated 20th February, 2026. Subsequent events have also been brought on record. The issue pertains to issuing the Development Rights Certificate (DRC) to the present Petitioner in terms of the settlement between the

parties, by the Corporation. We permitted the amendment since subsequent events were being brought on record and to avoid multiplicity of litigation in filing one more Contempt Petition.

5. Seldom does it happen that a Respondent virtually desires to confront the Court in Contempt proceedings. The case in hand is one such example, and it becomes necessary to advert to the salient features of the litigation between the parties, which now compel us to issue notice under the Contempt of Courts Act to Respondent No.3, Mr. Saurabh Rao, Commissioner, Thane Municipal Corporation and Respondent No.8, Mr. Sangram Kanade, Assistant Director, Town Planning, Thane Municipal Corporation.

6. The Writ Court has delivered a judgment dated 20th February, 2026 in Writ Petition No.3205 of 2018 and Writ Petition No.10024 of 2023. A prolonged history of litigation over more than 50 years has led to the delivery of the said judgment running into 191 pages. Certain documents have been made a part of the said judgment.

7. The genesis of the issuance of DRC, in this Contempt case, manifests in the consent terms between the parties in the litigation before the Civil Court. The Thane Municipal Corporation is a consenting party and, in view of the consent terms, the learned Civil Judge, Senior Division, Thane passed an order on 17th September, 2025, thereby accepting the amicable settlement between the parties. In short, the Corporation agreed to grant DRC against the surrendered portion of land admeasuring 404721.02 sq. mtrs., to the Petitioner.

8. Since we are issuing a Contempt notice to the Commissioner of the Thane Municipal Corporation under the Contempt of Courts Act, we are not required to advert to all the facets leading to the consent terms. Suffice it to say that even the Municipal Corporation concedes the fact that the DRC was unequivocally agreed to be given/issued in favour of the present Petitioner. A specific statement of the Corporation was recorded in the consent terms that “*Defendant No.2* (which is the Thane Municipal Corporation) *shall issue TDR and DRC in view of the UDCPR for the time being in force, to the entitled parties to the*

consent terms”. Based on the consent terms, Special Civil Suit Nos.440 of 2019 and 36 of 2019, were disposed off.

9. The learned Senior Advocate Mr. Apte has canvassed that if none of the parties intend to approach the Hon’ble Supreme Court, the DRC will have to be issued. But if any party desires to approach the Hon’ble Supreme Court, and if the judgment of this Court dated 20th February, 2026 is upset or modified, the beneficiary of the DRC (the present Contempt Petitioner) would utilise the DRC and create an irreversible situation.

10. The learned Advocate for the Petitioners submits that this Court (Coram : A.S. Gadkari and Kamal Khata, JJ.) has already recorded in paragraph no.2 of the order dated 28th April, 2025 that the Petitioner will give an undertaking indemnifying the Corporation, in case he is unsuccessful in litigation.

11. In the reproduced order of our Court dated 1st April, 2026, we have recorded the grave anxiety expressed by this Court (Coram : A.S. Gadkari and Kamal Khata, JJ.) as regards the constant

resistance of the TMC in implementing the orders of this Court. Our reproduced order dated 1st April, 2026 refers to the observations of the said Bench in paragraph nos.4 and 5.

12. The learned Advocate for the Petitioners has stated that the undertaking of the Petitioners to indemnify the Corporation, if eventually it is concluded that the Petitioners do not have any right to the DRC, is enough to protect the rights of the Corporation and lay to rest its apprehension. He, therefore, submits that the Bench led by Hon'ble Shri Justice A.S. Gadkari has rightly recorded in its order that "*The obstinate stand adopted by the TMC is unwarranted and speaks volume.*"

13. We have been dealing with the present Contempt Petition for over a year. Various orders passed by this Bench in this Contempt Petition from time to time, would clearly indicate that we have been extremely patient with the Municipal Corporation, notwithstanding the fact that the Municipal Corporation has actually taken undue advantage of our magnanimity. Time and again, we have been adjourning the Contempt proceeding for the reason that

the final hearing in Writ Petition No.3205 of 2018 and Writ Petition No.10024 of 2023, had commenced on 21st November, 2025, and continued for almost a month.

14. After we delivered a lengthy judgment on 20th February, 2026, we still granted time to the Corporation to issue the DRC after 21 days from the date of uploading of the judgment. The judgment was uploaded on 25th February, 2026. Even this period of 21 days has lapsed, and it is an admitted position that no party has approached the Hon'ble Supreme Court. The Petitioners have served notices on Respondent Nos.3 and 8 intimating them about the Contempt of Court proceedings.

15. We are *prima facie* convinced that the directions of this Court dated 28th April, 2025 and 20th February, 2026 have not been complied with. Hence, **issue notice** in the format prescribed under the Contempt of Courts Act, 1971, to Respondent No.3, Mr. Saurabh Rao, Commissioner, Thane Municipal Corporation, and Respondent No.8, Mr. Sangram Kanade, Assistant Director, Town Planning, Thane Municipal Corporation, returnable on **5th May**,

2026. The learned Advocate Mr. Limaye waives service of notice on behalf of Accused Respondent Nos.3 and 8. Both shall remain present in the Court on the next date.

16. The Accused Respondents are at liberty to enter their affidavit in reply at least one week prior to the returnable date.

(ABHAY J. MANTRI, J.)

(RAVINDRA V. GHUGE, J.)