

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY****ORDINARY ORIGINAL CIVIL JURISDICTION****WRIT PETITION NO. 647 OF 2017**

Omkar Realtors & Developers Pvt. Ltd. ... Petitioner

V/s.

The State of Maharashtra & Ors. ... Respondents

Mr. Shakeeb Shaikh a/w. Mr. Noorain Patel i/b. Diamondwala And Co. for
Petitioner.

Mr. Manish Upadhye, A.G.P for Respondent No.1-State.

Ms. Vaishali Choudhari a/w. Ms. Meena Dhuri i/b. Ms. Komal Punjabi for
Respondent Nos.2 to 8-BMC.

Mr. Bharat Ushirkar, Sub-Engineer, Maint. Dept., F/South Ward, present.

Mr. Vijay Singh i/b. Desai Legal for Respondent No.9.

**CORAM : A. S. GADKARI AND
KAMAL KHATA, JJ.**

DATE : 24th March 2025.

P.C. :

1) In furtherance of Order dated 17th February 2025, Shri Prashant L. Sapkale, Deputy Municipal Commissioner has filed brief Affidavit dated 13th March 2025. Though there are no averments / statements made on oath by the concerned Authority, learned Advocate appearing for Respondent-BMC made a submission that, the BMC has already informed the SRA about their lawful obligation to be performed, which the SRA has failed to. No such averment is made in the said Affidavit. Despite repeated requests by



this Court, no contemporaneous record is shown to us by the Advocate for the Respondent-BMC and therefore we are unable to accept such a submission.

2) Record indicates that, present Petition is pending on the file of this Court for last more than eight years and different stands are adopted by different Officers of the BMC at different stages of hearing.

3) In view thereof, we deem it appropriate to direct the Additional Commissioner of Corporation having territorial jurisdiction over the writ property to file a detailed Affidavit to the Petition.

3.1) We direct the Additional Commissioner not to delegate its powers to any subordinate Officer while filing the Affidavit.

3.2) We also direct the Additional Commissioner to peruse earlier Orders passed in this Petition and the Affidavit(s) filed by its subordinate Officer(s) before filing the Affidavit.

3.3) The said Affidavit be filed within a period of two weeks from today.

4) Stand over to 16th April 2025.

5) Learned Advocate appearing for the Respondent-BMC is directed to place this Order before the Additional Commissioner of Corporation having territorial jurisdiction over the writ property.

(KAMAL KHATA, J.)

(A.S. GADKARI, J.)

Digitally signed
by OMKAR
SHIVAHAR
KUMBHAKARN
Date:
2025.03.26
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