



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.880 OF 2026

KUMAR HOTELS PVT. LTD. THR. AUTH. SIGN. N. KUMAR HARCHANDANI
VERSUS
 NAGPUR MUNICIPAL CORPORATION, THR. ADDITIONAL
 COMMISSIONER, NAGPUR

<i>Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders</i>	<i>Court's or Judge's orders</i>
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Mr. D.V. Chavan, Senior Advocate a/b Mr. A.S. Dabadghao,
 Advocate for Petitioner.
 Mr. J.B. Kasat, Advocate for Respondent.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATED : 02nd FEBRUARY 2026

1. Heard learned Senior Advocate for the petitioner.

2. The petitioner's challenge is to the order dated 13.01.2026, passed by the respondent Municipal Corporation, directing demolition of illegal structure as mentioned in the impugned order.

3. Learned Advocate for the petitioner submits that the impugned order is passed by the respondent Municipal Corporation by primarily considering the notice dated 29.07.1993 and 24.11.1998, which were issued by the respondent and on account of absence of any regularization or compounding of illegal structure, the subsequent show cause notice dated 04.12.2025, is issued in accordance with the procedure prescribed by the Circular dated 22.09.2025. He submits that, in response to the show cause notice dated 04.12.2025, the petitioner had appeared and filed reply dated 08.12.2025 and

16.12.2025 and thereafter, the respondent has passed the final order dated 13.01.2026, directing demolition of the unauthorized construction as mentioned in the said final order. This order is subjected to challenge by way of instant petition.

4. Considering the urgency involved in the matter, on 30.01.2026, this Court had directed the respondent Municipal Corporation to submit its affidavit-in-reply and the same is submitted today, which is taken on record.

5. Learned Senior Advocate for the petitioner submits that the impugned order is passed on the basis of a show cause notice dated 04.12.2025 and there is discrepancy about the area of alleged illegal construction since in the show cause notice, the alleged illegal construction of basement is mentioned as 310.58 Sq. Mtr., whereas in the final order, the illegal construction is mentioned as 510.58 Sq. Mtr. He submits that, although the impugned order is passed by following the procedure as required by the Circular dated 22.09.2025, however, the impugned order does not mention any reasons as to why the alleged illegal construction is not liable for regularization. He submits that, after the initial notices were issued in the year 1993 and 1998, the petitioner had submitted a proposal for regularization/compounding of illegal structure, which were considered by the authorities from time to time and even in this regard, the respondent had communicated to the Government by its technical scrutiny report dated 12.12.1995 and as such, no action could have been initiated by relying upon the notices of the year 1993 and 1998.

6. In support of his contentions, learned Advocate for the petitioner has filed an affidavit dated 02.02.2026, which is taken on

record. By this affidavit, it is submitted that the petitioner had already submitted a redevelopment proposal to the respondent Municipal Corporation, requesting for permission to demolish the existing building and construct a new building in its place. He submits that the said proposal is not rejected. Relevant paragraphs in this regard from the affidavit bearing paragraph Nos.2 and 3 are reproduced below.

“2. I say and submit that, the petitioner in the month of June 2025 had submitted a Re-development Proposal to the respondent through its Architect, inter-alia requesting for permission to demolish the existing building and construct a new building in its place. This proposal was submitted by the petitioner online, bearing Proposal No.1521252 on 02.06.2025 after payment of requisite fees and charges. After scrutiny of the proposal by the respondent’s officers, certain queries for submission of more documents was raised, amongst which were NOCs from Airport Authority of India, for which the petitioner has already applied for by making payment of necessary charges. However, as the NOC is still awaited from the Airport Authority of India, the petitioner has yet not been able to submit further documents.

3. What is therefore apparent is that, there is already a Redevelopment plan pertaining to the subject building pending before the respondent. As per the redevelopment plan, the petitioner proposes to demolish the existing building, which is alleged to be unauthorisedly constructed and for which the impugned action is being taken. Therefore, demolition of certain part of the structure which is already proposed by the owner to be demolished is nothing but a futile exercise. The fact that such proposal is pending is well within the knowledge of the respondent, despite which the impugned action has been taken by the respondent. It is therefore one more reason why the impugned action deserves to be quashed.”

7. Learned Advocate for the respondent Municipal Corporation submits that there is no discrepancy as alleged and there

is no order of regularization/compounding of illegal structure as on today. As regards the proposal/permission to demolish the existing building as referred by the petitioner, he submits on oral instructions that it is re-assigned and nothing is pending as on today.

8. In view of submissions canvassed on behalf of the petitioner, the respondent Municipal Corporation is directed to file on record its affidavit, also stating the status about the proposal for permission to demolish the building as submitted by the petitioner, referred above.

9. Necessary affidavit be submitted within a period of one week from today.

10. Since the petitioner has made out a *prima face* case, the effect and operation of the impugned order shall remain stayed till next date.

11. List this petition on 09th February 2026.

(PRAFULLA S. KHUBALKAR, J.)

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