

ITEM NO.21

COURT NO.7

SECTION IX

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

SPECIAL LEAVE PETITION (CIVIL) Diary No(s).26283/2026

[Arising out of impugned final judgment and order dated 16-04-2026 in AFO(ST) No. 10920/2026 passed by the High Court of Judicature at Bombay]

WALKESHWAR CHANDANBALA CHSL

Petitioner(s)

VERSUS

PREMLATA D KOTHARI & ORS.

Respondent(s)

IA No. 143923/2026 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 143927/2026 - PERMISSION TO FILE PETITION (SLP/TP/WP/..)

Date : 15-05-2026 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE VIJAY BISHNOI

For Petitioner(s) :Mr. Dama Seshadri Naidu, Sr. Adv.
Ms. Amrita Panda, AOR
Mr. Ruchir Joshi, Adv.
Ms. Rk Punamiya, Adv.

For Respondent(s) :Mr. Siddhartha Dave, Sr. Adv.
Mr. Tushar Goradia, Adv.
Ms. Misha Rohatgi, AOR
Mr. Nakul Mohta, Adv.
Ms. Kartikeya Desai,, Adv.
Mr. Chirag Sarawagi, Adv.
Ms. Sneha Menon, Adv.
Ms. Arundati Mukherjee, Adv.
Mr. Yash Sinha, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. Interlocutory Application No.143927/2026, i.e.,
permission to file SLP is allowed.

2. Heard Mr. Dama Seshadri Naidu, the learned senior counsel appearing for the petitioner and Mr. Siddhartha Dave, the learned senior counsel appearing for the respondent no.1 to 4, respectively.

3. The petitioner claims to be the lawful owner of the subject property. It is not in dispute that he is not a party to the suit proceedings.

4. The respondent nos.1 to 4, respectively are the original plaintiffs. They have instituted a Civil Suit in the City Civil Court being Suit (Stamp No.4907/2026). In the said suit, the plaintiffs have prayed for the following reliefs:-

*"31. In light of the foregoing, the Plaintiffs pray:
(a) That it be declared by this Hon'ble Court that the notice issued by the Designated Officer 'D' Ward, Mumbai u/s 52 (1) (b) & (d) r/w S.53 (1) of MRTP Act namely Notice No. D/D01D/219/53-1-MRTP ACT/D51N01/27-02-2026 dated February 27, 2026 bearing ref. no. 201306 as well as the consequent Speaking Order dated March 30, 2026 are illegal, in-operative and bad in law.*

(b) That this Hon'ble Court be pleased to quash and set aside the notice issued by the Designated Officer 'D' Ward, Mumbai u/s 52 (1) (b) & (d) r/w S.53 (1) of MRTP Act namely Notice No. D/D01D/219/53-1-MRTP ACT/D51N01/27-02-2026 dated February 27, 2026 bearing ref. no.201306 as well as the consequent Speaking Order dated March 30, 2026;

(c) That the Defendant, its officers and servants be permanently restrained by an order of injunction of this Hon'ble Court from acting upon/demolishing or removing or pulling down any portion of the subject Premises in pursuance of the notice issued by the Designated Officer 'D' Ward, Mumbai u/s 52 (1) (b) & (d) r/w S.53 (1) of MRTP Act namely Notice No. D/D01D/219/53-1-MRTP ACT/D51N01/27-02-2026 dated

February 27, 2026 bearing ref. no.201306 as well as the consequent Speaking Order dated March 30, 2026;

(d) That pending the hearing and final disposal of the suit the Defendant, its officers and/or servants be temporarily restrained by an order of injunction of this Hon'ble Court from taking any action pursuant to the notice issued by the Designated Officer 'D' Ward, Mumbai u/s 52 (1) (b) & (d) r/w S.53 (1) of MRTP Act namely Notice No. D/D01D/219/53-1-MRTP ACT/D51N01/27-02-2026 dated February 27, 2026 bearing ref. no. 201306 as well as the consequent Speaking Order dated March 30, 2026 till deciding the proposal of retention/regularization application of the Trust in respect of the subject Premises;

(e) That pending the hearing and final disposal of the suit the Defendant, its officers and/or servants be temporarily restrained by an order of injunction of this Hon'ble Court from demolishing or removing or pulling down the subject Premises or any portion thereof in pursuance of the notice issued by the Designated Officer 'D' Ward, Mumbai u/s 52 (1) (b) & (d) r/w S.53 (1) of MRTP Act namely Notice No. D/D01D/219/53-1-MRTP ACT/D51N01/27-02-2026 dated February 27, 2026 bearing ref. no. 201306 as well as the consequent Speaking Order dated March 30, 2026;

(f) Ad-interim reliefs as prayed for in prayer clauses (d) & (e) herein-above be granted;

(g) Costs;

(h) Any other and further reliefs in favour of the Plaintiffs as this Hon'ble Court may grant in the circumstances of the present case."

5. In the said suit, the plaintiffs prayed for ad-interim injunction. The Court, vide order dated 08.04.2026 declined to grant any ex-parte ad-interim relief as prayed for. The order dated 08.04.2026 reads thus:-

"ORDER ON AD-INTERIM RELIEF

This suit is not scrutinized or registered yet, however, the learned Advocate of plaintiff being urgency in the suit, pressed for urgent ad-interim relief.

The plaintiff has challenged the impugned Notice under Section 53(1) r/w 52(1)(b) of the MRTTP Act and Speaking Order dated 30/03/2026, requesting to direct the, defendant/Corporation not to act upon as per impugned Notice J or demolish the suit structure.

He has argued that, there is a temple on the suit structure. Plaintiffs have constructed a temple, having basement plus ground floor. He has fairly admitted that, plaintiffs have not taken permission of the Corporation while constructing the temple. Therefore, they have moved an application to the appropriate authority for regularization of the suit structure. If the defendant is succeeded to demolish the same, suit would be infructuous, therefore, they seek relief that, defendant/corporation be restrained from demolishing the suit property in pursuance of the Notice.

Heard. Perused the record.

I am of the view that, the suit structure is a huge. There is unauthorized basement, ground floor and first floor. At the basement, plaintiffs have unauthorized extended room and RCC slab, bath room, aluminum partitions, unauthorized parking.

At the ground floor, they have constructed unauthorized construction of first floor RCC slab, shed for the staff, latrine, Upashray/ prayer hall, ramp to podium parking and extension to the temple.

At first floor, they have made unauthorized construction for parking of Upashray/ prayer hall and covered common space area around the temple.

Admittedly, it is a huge construction, constructed without permission. Though plaintiffs have made proposal to the Corporation to regularized the unauthorized construction but the said process will be entertained by the Corporation as per the own merit. In the circumstance, the reply/say of the defendant is required before passing any ad-interim relief.

Considering the alleged huge unauthorized construction, I am of the opinion that, it would not

be appropriate to grant ex parte ad-interim relief against the Corporation. Hence, ad-interim relief stands refused. Issue Notice to the defendants. Registry to scrutinize the suit and register as per rule."

6. Being dissatisfied with the order referred to above, the plaintiffs went before the High Court by filing Appeal From Order. The Appeal From Order gave rise to the impugned order before us.

7. As noted above, the petitioner is not a party in the suit proceedings. The learned senior counsel brought to our notice that the petitioner has moved an application before the Trial Court seeking impleadment as one of the defendants as he is directly concerned with the subject property, being the owner of the property. The application is yet to be adjudicated.

8. The impugned order by which the petitioner is aggrieved grants relief to the original plaintiffs, i.e., the respondent no.1 to 4 respectively from demolition.

9. The suit appears to be at a very nascent stage.

10. The learned senior counsel appearing for the petitioner would submit that in fact the plaintiffs ought to have impleaded the petitioner as one of the defendants in the suit.

11. Be that as it may. The first step in the process should be that the petitioner should get himself impleaded as one of the defendants in the suit. As long as he is not a party in the suit proceedings, it will be difficult for the petitioner to proceed further in the matter or to protect its interest.

12. We request the Trial Court to see that the application

preferred by the petitioner before us under Order 1 Rule 10 of the CPC seeking to be impleaded as one of the defendants is taken up for hearing and an appropriate order is passed within a period of four weeks from today.

13. If at all the petitioner is impleaded as one of the defendants in the suit, it shall be open for the petitioner to move an appropriate application before the High Court seeking modification of the impugned order.

14. At this stage, Mr. Siddhartha Dave, the learned senior counsel brought to our notice that in fact society has not preferred any application seeking impleadment as one of the defendants but the application has been filed by the intervenor before the High Court. Well, all these aspects shall be looked into by the Trial Court while hearing all the parties.

15. In view of the aforesaid, the Special Leave Petition stands disposed of.

16. Pending application(s), if any, also stand disposed of.

(HARPREET KAUR)
COURT MASTER (SH)

(POOJA SHARMA)
COURT MASTER (NSH)