

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE/INHERENT JURISDICTION

CIVIL APPEAL NO.1148 OF 2023  
(ARISING OUT OF SLP (C.) NO.11659/2019)

SANJAY ASHOKKUMAR KUKREJA & ORS.

Appellant(s)

VERSUS

STATE OF MAHARASHTRA & ORS.

Respondent(s)

WITH  
CIVIL APPEAL NO.1149 OF 2023  
(ARISING OUT OF SLP(C) No. 12045/2019)

CONTEMPT PETITION (C) No. 389/2020 in SLP(C) No. 12045/2019  
AND  
CONTEMPT PETITION (C) No. 654/2020 in SLP(C) No. 11659/2019

O R D E R

Leave granted in SLP (C) NO.11659/2019 and SLP(C) No. 12045/2019.

The appellants in these matters are aggrieved by an order passed by the Division Bench of the High Court of Bombay in a batch of Public Interest litigations (PILs), directing the removal of the unauthorized structures allegedly put up by the appellants herein.

We have heard Mr. Vinay Navare, Sr. counsel for the appellant(s) and Mr. Rahul Chitnis, learned counsel for the respondent(s).

In the impugned order dated 18.04.2019 passed in PIL No.54/2015, which we may call as the main order, the High Court has merely gone by the reply filed by the Deputy Engineer of the Public Works Department. No categorical findings have been recorded in the said order of the High

Court, as to whether the structures put up by the appellants herein are located within the prohibited distance from the centre of the road, notified as control line. As a matter of fact, the High Court seems to have passed an order on 28.03.2019 directing the impleadment of the Kohlapur Municipal Council and also ordered notice returnable by 18.04.2019. But on 18.04.2019, all the Public Interest Litigations were disposed of, by separate orders, one of which is the main order which we are now dealing with.

In matters of this nature, it is necessary for the court to find out:

(1) Whether the procedure prescribed under the Bombay Highways Act, 1955 have been followed?

(2) Whether the appellants are actually guilty of putting up structures within the prohibited line?

There are different structures, put up by the appellants, each of which may be or may not be in violation and even those structures which are in violation, may be located at different distances. Unless categorical findings are recorded either on the basis of the pleadings or on the basis of the documents recorded or on the basis of any inspection report called for by the High Court, a cryptic order directing the removal of such encroachments could not have been passed by the High Court.

Therefore, the appeals are allowed. The impugned orders are set aside and the matter is remanded back to the High Court for fresh disposal.

The High Court shall ensure that the pleadings of all the parties including the newly impleaded parties are complete and thereafter, the High Court may decide the matter afresh on the basis of the pleadings and the documents. If necessary, an inspection shall be ordered to be carried out for the purpose of appropriate adjudication.

Thereafter, the High Court may pass orders in accordance with law after hearing all the parties preferably within a period of six months.

In view of the order passed in the batch appeals, the contempt petitions are closed.

.....J.  
(V. RAMASUBRAMANIAN)

.....J.  
(PANKAJ MITHAL )

NEW DELHI;  
14<sup>TH</sup> FEBRUARY, 2023

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

Petition(s) for Special Leave to Appeal (C) No(s). 11659/2019

(Arising out of impugned final judgment and order dated 18-04-2019 in PIL No. 54/2015 passed by the High Court Of Judicature At Bombay)

SANJAY ASHOKKUMAR KUKREJA & ORS. Petitioner(s)

VERSUS

STATE OF MAHARASHTRA & ORS. Respondent(s)

(IA No. 75724/2019 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 153977/2019 - EXEMPTION FROM FILING O.T.

IA No. 153705/2019 - EXEMPTION FROM FILING O.T.

IA No. 78880/2019 - EXEMPTION FROM FILING O.T.

IA No. 75725/2019 - EXEMPTION FROM FILING O.T.

IA No. 116931/2019 - INTERVENTION APPLICATION

IA No. 130004/2021 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES

IA No. 78879/2019 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

WITH

SLP(C) No. 12045/2019 (IX)

(FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA 77811/2019

IA No. 77811/2019 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

CONMT.PET.(C) No. 389/2020 in SLP(C) No. 12045/2019 (IX)  
(FOR ADMISSION)

CONMT.PET.(C) No. 654/2020 in SLP(C) No. 11659/2019 (IX)  
(FOR

FOR ISSUE OF BAILABLE WARRANT OF ARREST ON IA 101740/2020

FOR EXEMPTION FROM FILING O.T. ON IA 101743/2020

FOR EXEMPTION FROM FILING AFFIDAVIT ON IA 101754/2020

IA No. 101754/2020 - EXEMPTION FROM FILING AFFIDAVIT

IA No. 101743/2020 - EXEMPTION FROM FILING O.T.

IA No. 101740/2020 - ISSUE OF BAILABLE WARRANT OF ARREST)

Date : 14-02-2023 These matters were called on for hearing today.

**CORAM :**

**HON'BLE MR. JUSTICE V. RAMASUBRAMANIAN  
HON'BLE MR. JUSTICE PANKAJ MITHAL**

**For Petitioner(s)** Mr. Vinay Navare, Sr. Adv.  
Mr. Anand Dilip Landge, AOR  
Mr. Satyajit A. Desai, Adv.  
Mr. Vijay Raj Singh Chauhan, Adv.  
Mr. Vijay Raj Singh Chauhan, Adv.  
Mr. Siddharth Gautam, Adv.  
Mr. Gajanan N. Tirthkar, Adv.  
Mr. Abhinav K. Mutyalwar, Adv.  
Ms. Anagha S. Desai, AOR

Mr. Sudhanshu S. Choudhari, AOR

**For Respondent(s)** Mr. Rahul Chitnis, Adv.  
Mr. Sumit R. Sharma, AOR  
Mr. Siddharth Dharmadhikari, Adv.  
Mr. Aaditya Aniruddha Pande, AOR  
Mr. Bharat Bagla, Adv.  
Ms. Kirti Dadheech, Adv.

Mr. Anand Dilip Landge, AOR  
Mr. Preshit Vilas Surshe, AOR  
Mr. Sudhanshu S. Choudhari, AOR  
Mr. Sudhanshu S. Choudhari, AOR

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

**IA No.116931/2019-Intervention application is dismissed.**

**Leave granted in SLP (C) NO.11659/2019 and SLP(C) No.  
12045/2019.**

**The Appeals are allowed in terms of the signed order  
which is placed on the file. In view of the order passed in batch  
appeals, the contempt petitions are closed.**

**Pending application(s), if any, shall stand disposed of.**

**(RADHA SHARMA)  
COURT MASTER (SH)**

**(RENU BALA GAMBHIR)  
COURT MASTER (NSH)**