

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2391 OF 2026

Dilip Malharrao Patil

VERSUS

The State of Maharashtra Through Principal Secretary Urban
Development Dept. And Ors.

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Mr. Vishal Kale a/w Ms. Pallavi Kale, Mr. Ganesh Misal, Mr. Sandesh S. Darade, Ms. Aishwarya Patil, Mr. Mandar Deshmane i/by Mr. Vishwanath S. Talkute, Advocate for Petitioner.

Mr. P. B. Shah (Through V.C.) a/w Mr. Rahul Patil, Mr. Ashitosh Jambilkar, Advocate for the Respondent No.2.

Ms. Tejas J. Kapre, AGP for the Respondent-State.

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CORAM : MILIND N. JADHAV, &
NANDESH S. DESHPANDE, JJ.

DATE : 02nd JULY, 2026.

P. C. :

1. Heard Mr. Vishal Kale, learned Advocate for the Petitioner, Mr. P. B. Shah (Through V.C.) a/w Mr. Rahul Patil, Mr. Ashitosh Jambilkar, who enters appearance on behalf of Satara Municipal Corporation and Ms. Tejas Kapre, learned AGP for the Respondent-State.

2. On 18th June, 2026, this Court had passed the following order :

“1. Heard Mr. Talkute, learned Advocate for the Petitioner.

2. The Petitioner’s grievance is that the 15 metres wide road line which is sought to be acquired for the purpose of road widening affects the Petitioner’s structure, which is a long-standing residential structure. On the basis of the material which is appended to the Petition an impression is gathered that the road line would extend right up to the wall of the Petitioner’s structure, which can be seen from Page No.40.

3. However, Mr. Talkute has been candid enough and honest by placing on record the road-line alignment contemplated by the Municipal Corporation and when the said photograph which extends inside of the Petitioner’s structure is seen it is *prima facie* observed that the road line and alignment does extend beyond the Petitioner’s structure to a certain extent and the Petitioner’s structure is affected.

4. Though the Petitioner may have a grievance with regard to the two statutory notices appended at Page Nos. 36 and 37 issued under the Maharashtra Regional and Town Planning Act, 1966 (MRTP), however, the subsequent notice dated 22.05.2026, *prima facie* answers the grievance of the Petitioner, the road line and alignment in the plan, though it is vehemently refuted by Mr. Talkute.

5. We are issuing notice to the Municipal Corporation to address the above issue; however, *prima facie*, on the basis of the documents placed before us, we are not fully convinced by the submissions made by the Petitioner. One of the reasons which impel us to pass this order is because the Corporation has issued a communication appended at Page 38 of the Petition, seeking to grant TDR to the Petitioner for the loss of land area falling within the alignment of the road proposed to be widened.

6. Reading the material appended to the Petition, there is no doubt that the requirement of widening of the road is for the benefit of the public, as also it would serve a dominant public purpose, leading to ease the traffic congestion in the area. The power of eminent domain is, therefore, proposed to be employed by the Planning Authority for widening of the road.

7. The grievance of the Petitioner is *prima facie* understandable. When the Petitioner is served with statutory notices purportedly issued under Sections 52 and 53 of the MRTP Act and, within a very

short time, Petitioner is forced to answer the said notices, the only avenue open to the Petitioner in such a case is to rush to the Court.

8. Yesterday, when the matter was mentioned before us, Mr. Talkute was also forthright enough to inform us that the Petitioner had initially approached the Civil Court, but was unsuccessful in obtaining ad-interim relief. He would submit that therefore the Petitioner has filed the present Petition.

9. Once the Petitioner has been unsuccessful in obtaining an injunction, there is very little which this Court can do in its writ jurisdiction. However, *prima facie*, what we find is that there are no disputed questions of fact in the present case and this is a pure case of eminent domain having been employed for public welfare and development.

10. Undoubtedly, the Petitioner for the loss of his structure and the area to that extent would have to be compensated, which is *prima facie* acknowledged by the Corporation on issuance of the notice/communication dated 22.05.2026.

11. It is also seen that the road alignment work and road widening work are under progress. It is not a case that the widening of the road on either side of the Petitioner's structure has already been completed but for the Petitioner's structure obstructing the said road widening and alignment. Hence, to that extent, until the reply is filed by the Satara Municipal Council, the Council and its Officers are directed by the Court not to take any coercive steps for demolition of the Petitioner's structure to the extent of the road line.

12. Reply is called for to be filed by the Council within two weeks from today positively.

13. The Petitioner will serve a copy of this order and the Petition on the Council forthwith. The Council is expected to place on record the amount of compensation to which the Petitioner would be entitled, if at all, in accordance with law, since the Council's expression of interest is to pay TDR to the Petitioner is clear from the communication dated 22.05.2026.

14. Hence, issue notice to the Respondents. Humdast Permitted. Private service is permitted.

15. We clarify that the present order is a working order to enable the Petitioner to also understand his substantive rights, as also the steps taken by the Corporation for road widening and alignment.

16. The Petitioner is therefore also put to notice by the Court that the present Petition will be monitored by the Court regularly and no long hiatus or time will be given to take advantage of any such ad-interim order because, in the opinion of this Court, public welfare and development is paramount.

17. List this Writ Petition on **2nd July, 2026**. To be placed **'First on Board'**.

18. The aforesaid ad-interim direction not to take coercive steps against the Petitioner's structure is continued only up to the next date."

3. The matter was placed before us today. Mr. Kale, learned Advocate appearing for the Petitioner, on instructions from the Petitioner, submits that the Petitioner has understood the context of the aforesaid order. The Petitioner is present in Court. He is a doctor.

4. Though the Petitioner's structure is admittedly coming in the road alignment/road line of the proposed DP Road, the portion of the Petitioner's structure to that extent which affects the said road line will have to be removed. We are not in favour of any "bulldozer justice" in our Court, primarily because of the reasons mentioned by us in the aforesaid order, viz., the entire road line and alignment of the proposed road widening of the DP Road is yet to be completed by the Planning Authority. Therefore, we are inclined to pass appropriate directions to initially enable the Petitioner to remove the affected structure to the extent possible, and only if the Petitioner fails to cooperate, in that case we will pass coercive orders.

5. Today, upon hearing the Petitioner at length in Court, Mr. Kale, learned Advocate, in his usual fair-mindedness, informs the Court that he has deliberated with and impressed upon the Petitioner that the portion of the structure falling within the road line/road alignment will have to be removed and handed over to the Planning Authority. Since there is a built-up structure and the procedure for acquisition through private negotiations did not fructify and failed in the interregnum, this Court, while recording the previous order, also noted the Planning Authority's expression of interest in granting TDR..

6. Today Mr. Kale would inform the Court that the Planning Authority desires to grant three times TDR, but according to the Petitioner, he is yet to certify and accept the same and or decide otherwise and invoke acquisition.

7. Needless to state that the avenues for seeking compensation available to the Petitioner in law remain open. We make it very clear that whether the compensation is paid to the Petitioner by way of private negotiation, TDR, or through the statutory process envisaged under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the time-

frame for handing over the affected land underneath the structure will not be extended by us. The Petitioner will have to ensure that the portion of the structure affected by the road alignment and road widening is removed by him in the first instance, and only if the Petitioner fails to do so, then we will pass appropriate directions to the Planning Authority to demolish the same to that extent. The reason why we are impelled to pass such directions is because the subject structure is a residential dwelling house cum hospital of the Petitioner, who is a doctor by profession which is run from the said structure. In that view of the matter, we are inclined to allow the Petitioner to remove the affected structure himself in the first instance.

8. However, Mr. Kale persuades us that the precise road alignment and road line, either from the centre line of the road or with reference to the full width of the proposed 15-metre road is required to be measured and ascertained. He submits that if it is left open to the Planning Authority to enter the structure and demolish part of it, it may result in serious prejudice to the other part of the structure because the Petitioner himself is not aware of the precise road line and road alignment. To that extent, Mr. Kale may be right.

9. Considering that the entire road is under development and is not yet fully completed, we are inclined to appoint Mr. Sagar Mane as a Court Commissioner and Architect Mr. Mayur Gandhi from Satara, who is a neutral person, as a Court-appointed Architect, to visit the subject structure of the Petitioner situated within the jurisdiction of the Satara Municipal Council within a period of one week from today on any day as coordinated by the Court Commissioner.

10. The said Architect is directed by us to take all necessary documents from the Petitioner as also the Planning Authority's representative for the purpose of determining the exact road line and carrying out the measurements in accordance with law. Such copies shall also be given to the Court Commissioner.

11. We are not aware of the exact centre line, as argued by Mr. Kale before us. The same shall be determined by the concerned Architect after examining the documents furnished by the Petitioner and the Planning Authority.

12. We direct that neither the Petitioner nor any official of Planning Authority will argue with the Architect. However, they will

separately apprise the Architect as to how the measurement of the road-line and road alignment is required to be done, so that the Architect, who is appointed by us will prepare an appropriate map of the structure and show the road-line to the extent of which the structure gets affected. This exercise is directed to be carried out within a period of one week from today positively.

13. We direct both the parties, viz., the Petitioner and the Satara Municipal Council, to pay the fees of the Court Commissioner and Architect appointed by this Court equally, i.e., 50% each. The reason why we pass such an order is because the Satara Municipal Council is in a great hurry to demolish the structure of the Petitioner and, therefore, this order is in the interest of both the parties before us.

14. The report of the Architect will be placed before us showing the map and affected structure as per the road-line and road alignment on the next date.

15. We have requested Mr. Sagar Mane, learned Advocate practicing at this Bar, to act as the Court Commissioner at the time when the Architect visits the site, prepare an appropriate report of the said visit along with the report of the Architect, and place the same before us.

16. Mr. Mane has graciously accepted the request made by this Court.

17. Mr. Mayur Gandhi, Mobile No.9890180064, residing at Mangalwar Peth, Near Suyog Mangal Karyalaya, Satara – 415002, is appointed as the Court Architect to carry out the above exercise under the supervision of the Court Commissioner, Advocate Mr. Sagar Mane (Mobile No.9960639191).

18. List the matter on **14th July, 2026 at 2:30 p.m.**

[NANDESH S. DESHPANDE, J.]

[MILIND N. JADHAV, J.]

Sajakali

Amberkar

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Dilip Malharrao Patil

.. Petitioner

Versus

The State of Maharashtra & Ors.

.. Respondents

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- Mr. Vishal V. Kale a/w Ms. Pallavi V. Kale, Mr. Ganesh M. Misal, Mr. Sandesh Darade & Ms. Aishwarya Patil, Advocates for Petitioner
- Mr. Kavyal P. Shah, Advocate for Respondent No. 2
- Ms. Tejas J. Kapre, AGP for State
- Mr. Sagar Mane, Court Commissioner

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**CORAM : MILIND N. JADHAV &
NANDESH S. DESHPANDE, JJ.**

DATE : JULY 14, 2026

P. C.:

1. Heard Mr. Kale, learned Advocate for Petitioner; Mr. Shah, learned Advocate for Respondent No. 2, Ms. Kapre, learned AGP for State and Mr. Mane, learned Court Commissioner.

2. Court Commissioner Mr. Mane is directed to supply copies of report along with map to all the parties. The report of the Court Commissioner and the inspection is highly encouraging and it may in fact resolve the issue altogether. The report *prima facie* states that as per the measurement which is carried out with the help of Architect Mr. Gandhi, the road alignment does not affect the main structure which is the load bearing structure, however to the extent of certain

portion of the structure and the balcony stands affected which will have to be partly demolished. We give benefit of doubt to the Petitioner to inform us after going through the report as to within how much time, Petitioner will undertake demolition of the subject structure which is affecting road alignment and handover the same to the Satara Municipal Council.

3. We also intend to appreciate Advocate Mr. Mane, learned Court Commissioner who was appointed at the eleventh hour and who after accepting the request made by Court completed the work in the shortest possible time by going to Satara and taking trouble to prepare the report. Court Commissioner's Report along with Architect's Report are taken on record. Copies are given to all the parties.

4. After hearing Mr. Kale, we direct the Petitioner to remove the obstructing structure within a period of four weeks which he undertakes to do so on his own volition to the extent of the road alignment / road line being affected. This order needs to be passed primarily because we do not intend to cause any further damage to the load bearing structure of Petitioner which can undoubtedly be saved for the Petitioner to run his hospital therein. Needless to state that Satara Municipal Council will not take any coercive steps for going and forcibly demolishing the Petitioner's structure in view of this order. We direct that Satara Municipal Council's Officers shall visit the subject

premises after a fortnight until the next date, observe and prepare a status report and keep it in their office and present the same before this Court so that this Court will be apprised about the steps taken by Petitioner. Petitioner shall file undertaking within one week stating that Petitioner on his volition by deploying his own machinery and men and without seeking any compensation from the Municipal Council shall demolish the contentious structure which is falling within the road line / road alignment and once the said demolition is completed apprise the Court about handing over the said land to the Municipal Council for completing the road.

5. We appreciate the services rendered by Advocate Mr. Sagar Mane, learned Advocate and direct the Legal Services Authority to release his professional fees on the basis of server copy of this order within a period of two weeks from today on receipt of memo o his fees.

6. We also appreciate the services rendered by Advocate Mr. Sagar Mane and Architect Mr. Mayur Gandhi who have despite heavy rain in Satara have completed the assignment given to them.

7. Another grievance raised by Mr. Kale needs to be mentioned herein. He would submit that though the Petitioner is handing over the land, Petitioner needs to be compensated. Undoubtedly, Petitioner

is absolutely right. Section 126 of the Maharashtra Regional and Town Planning Act, 1966 (for short "**MRTA Act**") contemplates several methods of acquisitions. Firstly it contemplates that if the Planning Authority and the owner of land enters into a mutual agreement, same can be fructified. To begin with simultaneously we direct the officers of Satara Municipal Council to get in touch with the Petitioner and initiate talks for entering into private agreement if it is possible for them to do so for giving compensation for the acquired land. Needless to state that the Council shall ascertain the land taken over on the basis of the Architect's Report and the road line area and furnish the details of the area to Petitioner. If the Petitioner is aggrieved with the same, all rights and contentions of Petitioner are expressly kept open to challenge the said area of land also. If the parties do not fructify the mutual agreement between them, then in that case appropriate directions will be passed on the next adjourned date to direct acquisition of land in accordance with law. Needless to state that it shall be ascertained by Court whether the owner of land is entitled for compensation for handing over the road alignment area to the Council in accordance with law.

8. Liberty to apply.

9. Stand over to 11th August, 2026 at 2.30 p.m.

[NANDESH S. DESHPANDE, J.]

[MILIND N. JADHAV, J.]