SANTOSH SUBHASH KULKARNI
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Date: 2026.06.17 19:27:16 +0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO. 413 OF 2025

Maharashtra Industrial Development
Corporation, Having its Regional Office ...Applicant
MIDC Mahape, Behind Lokmat Plot, AM-20,
B-Wing, 3rd Floor, TTC Industrial Area,
Post: Koparkhairane, Navi Mumbai

Versus

Shivam Govendra Singh,
Age 27 years, Indian Inhabitant,
Having its address at S.No.56/16/12, Near
H. P. Petrol Pump, Vashere Village, Sagar
Wajan Kata, Bhiwandi, Thane,
Maharashtra 421302 ...Respondent

WITH

INTERIM APPLICATION NO. 1631 OF 2026
IN
CIVIL REVISION APPLICATION NO. 413 OF 2025

Vibha Amit Gupta
In the matter between ...Applicant
Maharashtra Industrial Development
Corporation ...Applicant

Versus

Shivam Govendra Singh ...Respondent

Mr. Surel Shah, Senior Advocate, a/w Kinjal Jain and Meet Vora, i/b Navdeep Vora & Associates, for the Applicant in CRA.

Ms. Vidya Kamble, through VC, a/w Balasaheb Deshmukh, for Respondent No.1.

Mr. Kunal Chheda, for the Applicant in IA/1631/2026.

CORAM: N. J. JAMADAR, J.
RESERVED ON: 26th MARCH, 2026
PRONOUNCED ON: 17th JUNE, 2026

JUDGMENT:

1. This Revision Application is directed against an order dated 29th July, 2025 passed by the learned Civil Judge, Belapur, whereby an application (Exhibit-17) preferred by the Applicant–Defendant for the rejection of the plaint in RCS/180/2025 under the provisions of Order VII Rule 11(a) and (d) of the Code of Civil Procedure, 1908 ("the Code") came to be rejected.

2. Shorn of superfluities, the background facts can be stated as under:

2.1 The Applicant–Defendant is a statutory corporation incorporated under the Maharashtra Industrial Development Act, 1961 ("the Act, 1961"). The Defendant has established industrial areas and industrial estate for the growth and development of the industries in the State of Maharashtra. The Defendant allots plots/units in the industrial areas/parks established by it to entrepreneurs for various purposes to achieve the statutory objectives of planned and industrial development in the State of Maharashtra. The Defendant is designated as a Special Planning Authority under Section 40(1A)

of the Maharashtra Regional and Town Planning Act, 1966 ("the MRTP Act, 1966").

2.2 A plot of land bearing No. PAP-R-497, admeasuring 300 sq. mtrs. situated at TTC Industrial Area, Mahape, Navi Mumbai ("the suit premises") was purportedly allotted to M/s. Reyansh Hotel and Lodging Boarding. The Respondent-Plaintiff claims, Nikhil Keshav Patil, one of the partners of the lessee M/s. Reyansh, gave the suit premises on a leave and licence basis to the Plaintiff and Mr. Adarsh Kumar Sanjay Kumar Mishra by executing a registered Leave and Licence Agreement dated 2nd May, 2025, for a term of 60 months. The Plaintiff has obtained the requisite permissions to operate the weighbridge on the suit premises from the Competent Authorities.

2.3 The Plaintiff asserts, on 16th June, 2025, the Defendant's Executive Engineer issued a notice purportedly under Sections 52 and 53(1) of the MRTP Act alleging that the Plaintiff has illegally constructed weighbridge on the suit premises and directed the Plaintiff to remove the alleged unauthorized construction within a period of 32 days from the date of the receipt of the said notice. On the very day, the Plaintiff avers, the Deputy Engineer, Sub-Division-II, Mahape MIDC, issued another notice to the Plaintiff to the effect that Vibha Amit

Gupta has made a complaint alleging unauthorized construction by the lessee without the permission of MIDC, and called upon the lessee to stop the construction activity. By the said notice dated 16th June, 2025, the lessee was called upon to remove the alleged unauthorized construction within 15 days thereof.

2.4 The Plaintiff, thus, approached the Civil Court seeking a declaration that the notices issued by the officers of the Defendant were bad in law, illegal, null and void, and the consequential reliefs to restrain the Defendants from demolishing or pulling down or removing any structure which stood over the suit premises in pursuance of the impugned notices. The Plaintiff alleged that the impugned notices betray a complete non-application of mind. The notices were issued without carrying out any prior inspection. There was no unauthorized construction over the suit premises. At the behest of Vibha Amit Gupta, the applicant in IA/1631/2026, the Defendant had resorted to arbitrary and illegal action. The notices were thus a nullity.

2.5 The Defendant resisted the suit. In addition, the Defendant took out the application seeking rejection of the plaint contending, *inter alia,* that the plaint did not disclose any

cause of action and that the suit was barred by the provisions of Section 149 of the MRTP Act.

2.6 The Plaintiff contested the application for rejection of the plaint.

2.7 By the impugned order, the learned Civil Judge rejected the application for rejection of the plaint observing that in view of the averments in the plaint, it cannot be said that the plaint did not disclose a cause of action. The learned Civil Judge was of the view that, in the facts of the case, the bar to the institution of the suit under Section 149 of the MRTP Act was not clearly attracted. The issues agitated in the suit warranted adjudication at the trial.

3. Being aggrieved, the Defendant has invoked the revisional jurisdiction.

4. It would be relevant to note that, Vibha Gupta, at whose instance, the Deputy Engineer, MIDC, had issued the second notice dated 16th June, 2025 has filed IA/1631/2026 seeking setting aside of the impugned order. The applicant in IA/1631/2026 claims to be carrying on her business of weighbridge at Plot No. WB/R-4, TTC, MIDC, and in the wake of unauthorized construction and operation of weighbridge by the

Plaintiff, she claimed to have lodged the complaint with the officers of MIDC.

5. I have heard Mr. Surel Shah, the learned Senior Advocate for the applicant in CRA, Ms. Kamble, the leraned Counsel for the respondent – Plaintiff and Mr. Chheda, the learned Counsel for the applicant in IA/1631/2026. The learned Counsel for the parties took the Court through the pleadings, documents and material on record.

6. Mr. Surel Shah, the learned Senior Advocate for the applicant in CRA, submitted that the learned Civil Judge committed a manifest error in law in rejecting the application for rejection of the plaint though the interdict contained Section 149 of the MRTP Act was clearly attracted. It was submitted that the civil Court's jurisdiction was completely excluded in respect of any notice issued by the planning authority under Section 149 of the Act, 1966. The Plaintiff has used the expression that the notices are illegal, bad in law and amount to nullity as a mantra. No effort has been made to demonstrate as to how the notices issued by the Defendant are nullity. The mere iteration of the expression that the notices are illegal, bad in law or nullity is not sufficient to clothe jurisdiction on the civil Court when the same stands completely excluded by the

finality accorded to the orders and the notices by Section 149 of the MRTP Act, 1966.

7. Mr. Shah further submitted that, despite the well-settled position in law having been brought to the notice of the Court, the learned Judge mechanically rejected the application for rejection of the plaint. In the process, the learned Judge lost sight of the fundamental principle that a plaint is required to be read in a meaningful manner and if, by clever drafting, an illusion of a cause of action was created, such endeavour must be nipped in the bud.

8. To buttress the aforesaid submission that it was incumbent upon the Plaintiff to *prima facie* demonstrate as to how the notice is bad and illegal and the mere use of the expression that the notices are bad, illegal and nullity is of no avail. Mr. Shah placed reliance on the judgments of this Court in the cases of ***Sarina Esmeralda Lopez vs. Vijay Goverdhandas Kalantri***[1]***, Laxman Barkya Wadkar vs. Mumbai Municipal Corporation***[2], ***Vandana Creations Pvt. Ltd. v. Municipal***

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1 (2015) 2 Mh.L.J. 603.

2 2011 SCC OnLine Bom 2162.

Corporation of Greater Mumbai[3]***,*** and ***Satish vs. Gopal Ramnarayan Mundhada and ors.***[4]***.***

9. Mr. Chheda, the learned Counsel for the intervenor, supplemented the submissions of Mr. Shah.

10. Per contra, Ms. Vidya Kamble, the learned Counsel for the Respondent – Defendant, supported the impugned order. Ms. Kamble would urge that at the stage of consideration of the prayer for rejection of the plaint only the averments in the plaint and the documents annexed thereto are required to be considered. The defence of the Defendant is not at all germane. Taking the Court through the averments in the plaint, Ms. Kamble submitted that the plaint contains adequate assertions to demonstrate as to how the impugned notices are illegal and amount to nullity. Banking upon the averments in the plaint, Ms. Kamble would urge that by no stretch of imagination it can be said that the plaint does not disclose a cause of action.

11. On the aspect of the bar to the suit under Section 149 of the Act, 1966, Ms. Kamble strenuously submitted that a bare perusal of the notices make it *ex facie* clear that the notices have been issued in a highhanded and arbitrary manner.

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3 2016 SCC OnLine Bom 10708.

4 (2015) 5 Mh.L.J. 463.

Ms. Kamble advanced severe criticism in regard to the issue of two notices on the very day with materially distinct allegations. The second notice addressed by the Deputy Engineer, MIDC, at the instance of the intervenor, clearly reveals that the intervenor was the driving force behind the issue of the peremptory notice. In these circumstances, the Plaintiff had no other go but to approach the civil Court.

12. In view of the provisions contained in Section 40(1A), any area where Chapter-VI of MIDC Act, 1961 applies or any other area comprising the Government land is handed over to the MIDC, established under Section 3 of the MIDC Act, shall be deemed to be "the notified area" and the MIDC shall be the Special Planning Authority in respect of such notified area, and shall be deemed to have been appointed as such under the said section, for the purposes of the MRTP Act. The impugned first notice dated 16th June, 2025 was purportedly issued by the Executive Engineer and Special Planning Authority under Sections 52 and 53(1) of the MRTP Act, 1966. It was, *inter alia,* alleged that it was reported that M/s. Reyansh Hotel and Lodging Boarding, the addressee, had carried out development on the MIDC land described in the schedule without requisite permission under the MRTP Act. The lessee had allegedly

committed encroachment and carried out unauthorized construction of a weighbridge on the suit premises.

13. *Prima facie,* the impugned first notice dated 16th June, 2025 appears to have been issued in exercise of the powers conferred on the Planning Authority under Sections 52 and 53(1) of the MRTP Act, 1966. Thus, the applicability of the provisions contained in Section 149 of the MRTP Act, 1966, which excludes the jurisdiction of civil Court by insulating the orders passed and notices issued by the State Government, Regional Board, Planning Authority or Development Authority from any challenge in any suit or legal proceedings, wrenches to the fore.

14. Section 149 of the MRTP Act reads as under:

> "149. Finality of orders.— Save as otherwise expressly provided in this Act, every order passed or direction issued by the State Government or order passed or notice issued by any Regional Board, Planning Authority or Development Authority under this Act shall be final and shall not be questioned in any suit or other legal proceedings."

15. A plain reading of Section 149, indicates that the edict of the legislature is in two parts. By the first part the finality is sought to be clothed to the orders passed or notices issued by the authorities under the Act, 1966. The second part expressly excludes the jurisdiction of the civil Court by providing that

such orders and notices shall not be questioned in any suit or other legal proceedings.

16. However, the bar is not absolute, in the sense that, whatever be the nature of the order or notices, the Civil Court is precluded from examining the legality and validity of such orders and notices. It is well recognized that the jurisdiction of the Civil Courts is construed to be plenary in nature. The exclusion of the jurisdiction of the Civil Court is not to be readily inferred. Even where finality is attached to the orders passed by statutory Tribunals/Authorities, if it can be demonstrated that the impugned action/order is in teeth of the provisions of the enactment under which the action is taken or order is passed in disregard to the statutory prescription, there is flagrant violation of the fundamental principles of judicial process and principles of natural justice, (wheresoever attracted) or the action/order is a nullity, the aggrieved party cannot be precluded from invoking the civil Court's plenary and omnipresent jurisdiction.

17. In the case of ***Dhulabhai vs. State of Madhya Pradesh***[5]***,*** the Supreme Court enunciated that where the statue gives a finality to the orders of Special Tribunals, the Civil Court's jurisdiction

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5 AIR 1969 SC 78.

must be held to be excluded if there is adequate remedy to do what the Civil Court would normally do in a suit. Such provision, however, does not exclude those cases where the provisions of the particular Act have not been complied with or the statutory tribunal has not acted in conformity with the fundamental principles of judicial procedure."

18. In the case of ***Dhruv Green Field Ltd. vs. Hukam Singh***[6]**,** after adverting to the previous pronouncements, the Supreme Court exposited the cases in which, notwithstanding the finality to the orders given by the particular statute, the Civil Court would retain its jurisdiction to entertain and adjudicate the suit provided the order complained of is a nullity. The observations in paragraph 10 are instructive and hence extracted below: -

> "10. In the light of the above discussion, the following principles may be re- stated:
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> (1) If there is express provision in any Special Act barring the jurisdiction of a civil court to deal with matters specified thereunder the jurisdiction of an ordinary civil court shall stand excluded.
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> (2) If there is no express provision in the Act but an examination of the provisions contained therein lead to a conclusion in regard to exclusion of jurisdiction of a civil court, the Court would then inquire whether any adequate and efficacious alternative remedy is provided under the Act; if the answer is in the affirmative, it can safely be concluded that the jurisdiction of the civil court is barred, If however, no such adequate and effective alternative remedy is provided then exclusion of the jurisdiction of civil court cannot be inferred.

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6 (2002) 6 SCC 416.

> (3) Even in cases where the jurisdiction of a civil court is barred expressly or impliedly the court would nonetheless retain its jurisdiction to entertain and adjudicate the suit provided the order complained of is a nullity."
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> (emphasis supplied)

19. A reference to two more judgments of the Supreme Court would be apposite. In the case of ***Shiv Kumar Chadha v. Municipal Corporation of Delhi***[7], the Supreme Court was dealing with the tenability of the suit in the light of the bar to the Civil Court's jurisdiction enshrined under Section 347-E of the Delhi Municipal Corporation Act, which provided that no Court shall entertain any suit in respect of an order or notice appealable under Sections 343 or 347-B and that no such order or notice shall be questioned otherwise than by preferring an appeal under the said sections. The Supreme Court enunciated the legal position in the following words:

> "29. It is well known that in most of the cities building regulations and bye-laws have been framed, still it has been discovered that constructions have been made without any sanction or in contravention of the sanctioned plan, and such constructions have continued without any intervention. There cannot be two opinions that the regulations and bye- laws in respect of buildings, are meant to serve the public interest. But at the same time it cannot be held that in all circumstances, the authorities entrusted with the demolition of unauthorised constructions, have exclusive power, to the absolute exclusion of the power of the Court. In some special cases where "jurisdictional error" on the part of the Corporation is established, a suit shall be maintainable.
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> According to us,

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7 (1993) 3 SCC 161.

(1) The Court should not ordinarily entertain a suit in connection with the proceedings initiated for demolition, by the Commissioner, in terms of section 343 (1) of the Corporation Act. The Court should direct the persons aggrieved to pursue the remedy before the Appellate Tribunal and then before the Administrator in accordance with the provisions of the said Act.

(2) The Court should entertain a suit questioning the validity of an order passed under Section 343 of the Act. only if the Court is of Prima facie opinion that the order is nullity in the eyes of law because of any "jurisdictional error" in exercise of the power by the commissioner or that the order is outside the Act."

(emphasis supplied)

20. In the case of ***Dolhin Padharo Devi vs. Indrajeet Tiwary***[8]**,** the Supreme Court, in the context of the bar to the jurisdiction of the Civil Court incorporated under Section 43 of the Bihar Land Reforms Act, 1961, postulated that it is firmly established that the jurisdiction of the Civil Court to deal with civil right can be excluded by the legislature, but the statutory provision in this regard must be express and clear. The bar created under the relevant provisions of a statute excluding the jurisdiction of the civil Court cannot however operate in cases where the plea raised before the civil Court goes to the root of the matter and could, if upheld, lead to the conclusion that the impugned order is a nullity.

21. In the case of ***Laxman Barkya Wadkar*** (supra), on which reliance was placed by Mr. Shah, a learned Single Judge of this Court, after adverting to the judicial precedents enunciated that

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8 (2008) 14 SCC 508

notwithstanding the finality clause and the clause expressly ousting the jurisdiction of the Civil Court under Section 149 of the MRTP Act, 1966, if there is an allegation made in the plaint that action for issuing notice under Sections 53(1) and 55 of the Act is a nullity or without jurisdiction, express exclusion of the jurisdiction of the Civil Court, will not come in the way of the Civil Court entertaining the civil suit. However, as held by the Apex Court in the case of ***Shivkumar Chadha*** (supra) the Court will have to be *prima facie* satisfied that the action appears to be a nullity or without jurisdiction. Thus, the bar created by Section 149 will not apply in a case where the action of issuing notice under Section 53(1) or Section 55(1) is allegedly to be a nullity. The suit cannot be dismissed at the threshold on the ground of bar of Section 149, if there is a case made out in the plaint that the action of issuing notice under Section 53(1) or 55(1) is a nullity. If the Plaintiff ultimately fails to establish the plea of nullity on evidence, the suit will be naturally thrown out.

22. In the case of ***Vandana Creations*** (supra), following the aforesaid judgment in ***Laxman Barkya Wadkar*** (supra), it was reiterated that the only eventuality in which a notice issued under the MRTP Act can be challenged in the civil Court is by

prima facie showing that the said notice is a nullity or issued without jurisdiction.

23. Undoubtedly, the mere use of the expression that the impugned order/notice is bad in law, illegal, void or nullity by itself is of no consequence. Bald and unsubstantiated pleadings to the effect that the notice is nullity, without anything more, would not be sufficient to entertain the suit. The Plaintiff has to demonstrate *prima facie* with reference to the material on record, from either the intrinsic evidence or the attendant circumstances that the notice is a nullity or without jurisdiction. Lest the object of providing exclusion of the jurisdiction of the civil Court would be completely defeated and the Planning Authority, to the notices or orders of which finality is designedly conferred, would be handicapped and restrained in the discharge of its statutory functions as a Planning Authority.

24. Mr. Shah is thus justified in canvassing the submission that the mere use of expressions like "illegal, bad in law, void or nullity" in the plaint is of no assistance to the plaintiff, who seeks to assail the order passed or notice issued by the Planning Authority. In the case of ***Sarina Esmeralda Lopez*** (supra) on which reliance was placed by Mr. Shah, a learned Single Judge of this Court enunciated that mere use of the words illegal or

bad in law without any substantiation would not aid the Plaintiff to invoke the jurisdiction of the civil Court as the jurisdiction of the civil Court can now be invoked only if the action is nullity, on account of their being an error of jurisdiction.

25. On the aforesaid touchstone, reverting to the facts of the case, first and foremost, it is necessary to note that the contention on behalf of the Defendant that the plaint does not disclose a cause of action is required to be stated to be repelled. The averments in the plaint if read in juxtaposition with the documents annexed to the plaint, clearly make out a cause of action.

26. On the aspect of the bar of jurisdiction which was pressed into service with tenacity by Mr. Shah, suffice to note that the two impugned notices work out the retribution of each other. The first notice dated 16th June, 2025 indicates that unauthorized development was in the nature of unauthorized construction of weighbridge on the suit premises. The lessee was called upon to demolish the unauthorized structure within 32 days from the date of receipt of the said notice. The second notice of even date addressed by the Deputy Engineer, tells a different story. It refers to the fact that a complaint was received from the intervener, who appears to be a rival weighbridge

operator. The second notice alleges that the Plaintiff had carried out unauthorized construction on the suit premises. The Plaintiff was called upon to stop the construction activity. By the said notice, the Plaintiff was directed to remove the unauthorized construction within 15 days, failing which action would be initiated by the Defendant.

27. The second notice does not disclose, even remotely, the nature of the unauthorized construction. The second notice also indicates that the Plaintiff was directed to stop the construction activity. It implies that the alleged unauthorized construction was underway when the second notice was issued.

28. *Prima faice,* I find substance in the submission of Ms. Kamble that the two notices of even date are incongruous, to say the least. Not only the authorities who issued those two notices on the same day were different (and thereby bringing to the fore the issue of jurisdictional competence, especially that of Deputy Engineer, who issued the second notice) but also the nature of the alleged unauthorized construction appeared to be different. The first notice referred to unauthorized construction of weighbridge. The second notice did not disclose the nature of the unauthorized construction. In the first notice, the Executive Engineer merely stated that it was reported to him that the

lessee had carried out development without permission, without disclosing the manner in which said unauthorized development was detected. The second notice, on the contrary, refers to the complaint lodged by the intervenor. It is interesting to note the first notice gave 32 days to the noticee to remove the unauthorized development. The second notice gave 15 days.

29. If the aforesaid discrepancies in the first and second notices of even date are considered, the submission on behalf of the Plaintiff that the notices betray non-application of mind and arbitrary exercise of power appears to be such as to warrant determination at trial. The Plaintiff has made adequate averments in the plaint to assail the legality and validity of the impugned notices with reference to the apparent discrepancies therein.

30. In the aforesaid view of the matter, the learned Civil Judge has justifiably returned a finding that the bar under Section 149 of the MRTP Act, 1966 may not preclude the Civil Court from examining the legality and validity of the impugned notices. Resultanly, this Court, in exercise of revisional jurisdiction, does not find any jurisdictional error or material irregularity in the exercise of the jurisdiction by the trial Court. The application, thus, deserves to be dismissed.

31. Hence, the following order:

: O R D E R :

(i) The Civil Revision Application stands dismissed.

(ii) In view of disposal of Civil Revision Application, IA/1631/2026, also stands disposed.

[N. J. JAMADAR, J.]

At this stage, the learned Counsel for the applicant seeks a direction for expeditious hearing of RCS/180/2025.

The learned Civil Judge is requested to give due priority to the hearing of the suit.

[N. J. JAMADAR, J.]