



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.3078 OF 2024

Anil B. Jhaveri HUF ...Petitioner
Versus
Brihanmumbai Municipal Corporation & Ors. ...Respondents

WITH
INTERIM APPLICATION (L) NO.8422 OF 2025
WITH
INTERIM APPLICATION NO.7774 OF 2025
WITH
INTERIM APPLICATION NO.9647 OF 2025
WITH
INTERIM APPLICATION NO.9013 OF 2025
IN
WRIT PETITION NO. 3078 OF 2024
WITH
WRIT PETITION (L) NO. 8855 OF 2025
WITH
WRIT PETITION (L) NO. 8860 OF 2025
WITH
WRIT PETITION (L) NO. 8875 OF 2025
WITH
WRIT PETITION (L) NO. 8943 OF 2025
WITH
WRIT PETITION NO. 1785 OF 2019

Mr. Karl Tamboly a/w Ms. Diksha J. Shetty i/b AAK Legal for Petitioner in WP/3078/2024.

Mr. G. S. Godbole , Sr. Adv. a/w Mr. Ziyad Madon, Mr. Rashmin Jain, Mr. Prathamesh Jadhav i/b Kanga & Co. For Petitioner in WPL/8875/2025 and for R. No. 8 in WP/3078/2024.

Ms. Deepa Pohuja a/w Sarabit Sing i/b J. Law Associates for Petitioner in WPL/8943/2025 and for Applicant in IAL/7774/2025.

Mr. Parth Jain a/w Mr. Ansh Agal & Mr. Roshan Reji i/b Jain Law Partners LLP for Petitioner in WPL/8855 and 8860/2025.

Mr. Aseem Naphade a/w Ms. Vaishnavi Gujarathi i/b Abhishek Matkar for Applicants in IAL/9647/2025.

Mr. Renjith Nair a/w Abhishk Mookherje i/b Shardul Amarchand Mangaldas for Applicants in IAL/9013/2025.

Mr. Chaitanya Chavan a/w Rutuja Bodake i/b Komal Punjabi for R. No. 1 & 2 BMC.

Mr. Madhukar G. Shelar, Asstt. Engineer Building & Factory Department D Ward
Ms. Rutuja Bodake for BMC in WP/1785/2019.
Mr. Vikrant Parshuram, AGP for State in WPL/8943/2025.
Mr. P. M. Bhansali a/w Mr. Krishkumar A. Jain, Mr. Kalpesh A. Bandre i/b Ritesh
K. Jain for R. No. 4.

**CORAM: G. S. KULKARNI &
ARIF S. DOCTOR, JJ.**

DATE: 23 JUNE 2025

P.C.

1. We have heard learned counsel for the parties on the backdrop of the earlier orders.
2. At the outset, we are informed by Mr. Naphade, learned counsel for Respondent – Intervenor, that the intervenors have filed an independent Writ Petition No.1785 of 2019, on which the Court had passed status quo orders. This petition also arises from the controversy involved in the present proceedings.
3. Accordingly list this petition along with the present petition.
4. After hearing learned counsel for the parties, it appears to us to be quite clear from the Joint Inspection report of the Municipal Corporation dated 26 March 2025, which has been placed on record earlier that there are gross illegalities stated to be on the part of the developer, in undertaking the construction of the building in question. On account of such unauthorized constructions, we are informed that as on date there is a part Completion Certificate (CC) from ground floor to sixteenth floor and most significantly from seventeenth floor to thirty-fourth floor, no Occupation Certificate has been granted. Despite this, the flats are occupied by the members of the society. This is quite surprising, as to how the possession of these flats can be taken over by these persons without the building being granted an Occupation Certificate.

5. Be that as it may, the law has to take its own course. The entire unauthorized alteration, modifications and constructions would be required to be removed and the building would be required to be restored/brought in a manner as per the sanctioned plans.

6. We may observe that a Joint Inspection report of the unauthorized construction/alteration is on record and all the parties are aware as to what are the glaring deviations/unauthorized alterations/construction etc., we direct the petitioners to place on record a statement in regard to all such unauthorized alterations, modifications, and constructions, so that the Municipal Corporation, at the cost of the society and/or the society itself can take immediate corrective actions so as to enable the Municipal Corporation to consider society's application for an appropriate occupation certificate to be accorded as per law, qua the ground to seventeenth floor and as also in respect of the seventeenth to thirty-four floors.

7. It is also seen from the record that the construction of this building commenced in the year 1990 and was completed in the year 2010, and the occupation of all the flats is from 2011, that too without a Fire NOC. This is something which is shocking to say the least, that the Municipal Corporation for a period of almost 15 years, permitted the building to be occupied without the Fire NOC, which has risked the lives of the occupants of this high-rise building which stands at the prime location in South Mumbai. The consequences of an untoward incident of a fire in a building which has no Fire NOC qua the requisite installations are just to be imagined. We put the Municipal Corporation to appropriate notice for dereliction of its statutory duty on these issues.

8. We also find that when such glaring unauthorized construction is resorted by the developer and the building itself is not constructed as per the approved plans, and when there is no occupation certificate granted by Municipal Corporation for a major portion of the building, in these circumstances, we can have no option but allow the course of law be set into motion. The members of the society, occupying seventeenth floor to thirty-fourth floors are required to be directed by the Municipal Corporation to vacate their respective premises, so that all corrective

actions can be taken to bring the building in line with the sanctioned plans and the OC proposal of the society can be considered in accordance with law. The Municipal Corporation, at least now needs to take such steps and accordingly put all such members of the society to such notice.

9. However, before we pass further appropriate orders, we would request the petitioners to place on record a proper statement of all the deviations which are apparent from the report similarly, the Municipal Corporation is directed to place on record all the deviations. The Competent Officer of the Municipal Corporation shall place such deviations on record on affidavit on the adjourned date of hearing.

10. As we are informed by Mr. Madon, learned counsel for the Respondent No.8 - Society, that a regularization application has been filed, we have grave doubt about any regularization application being maintainable, considering settled principles of law as laid down in catena of decisions of the Court as taken into consideration in a recent decision of this Court in **Feroz Talukdar Khan Vs. The Municipal Commissioner, Thane Municipal Corporation & Anr¹**.

11. Ad-interim protection granted shall continue to operate till the adjourned date of hearing.

12. Reply affidavit to be served before 27 June 2025.

13. List the matter on **30 June 2025 (FOB)**.

(ARIF S. DOCTOR, J.)

(G. S. KULKARNI, J.)

1 Writ Petition No.4210 of 2025 dated 18 June 2025