

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

Writ Petition No. 2019 of 2025

Bikram Prasad Mishra ... Petitioner
V/s.
State of Maharashtra and others ... Respondents.

Mr. Manish Gala a/w. Mr. Minil Shah i/b. Nilesh Gala for the petitioner.

Mrs. Usha Rahi, AGP for the State.

Mr. Nimay Dave a/w. Mr. Rubin Vakil, Ms. Sonam Khatre, Mr. Darshil Thakkar, Mr. Dipesh Palwankar i/b. Dhaval Vussonji & Associates for respondent No.8.

Mr. Simil Purohit, Senior Counsel a/w. Mr. Tushar Kadam a/w. Ms. Amisha Jain i/b. MDP Associates for respondent No.5 to 7.

**CORAM : M.S. KARNIK &
S.M. MODAK, JJ.**

DATE : 1st April 2026.

P.C. :

Heard learned counsel for the parties.

2. Our attention is invited by the learned counsel for the petitioner to the order dated 23rd February 2026 passed by this Court which reads thus:

“1) Leave to amend to implead Mumbai Municipal

Corrected vide order dated 8th April 2026

Corporation as Respondent No.9 to the Petition, granted.

Necessary amendment be carried out forthwith and in any event during the course of the day.

2) As usual, in this case also the Order/Decree passed by the MahaRERA is being frustrated by exploiting the legal lacunae. Ultimately, the Petitioners being the victims are further subjected to suffer by frustrating the Order passed by the MahaRERA.

3) It is the contention of the Respondent No.8 that, he is a mere contractor of Respondent Nos.5 to 7, against whom the Decree dated 26th November, 2019 is passed by the MahaRERA. The ultimate result is that, the Petitioners being gullible flat purchasers have been deprived from their legitimate right of getting decree executed. In various matters, we have come across that, the decrees passed by the MahaRERA are being frustrated by the Judgment Debtors by adopting different stands, due to which the intention of the Legislature in enacting the MahaRERA is not only frustrated but the gullible flat purchasers have also being deprived of the benefits of the decree passed by the competent Authority namely the MahaRERA.

4) Learned Advocate appearing for the Respondent Nos.5 to 7 submitted that, the Respondent No.5 i.e. M/s. Nirmal Developers, was the partnership firm whose partners were Respondent Nos.6 and 7. That, in pursuance of Deed of Retirement-cum-Continuation dated 10th June, 2015, there

are only two partners namely Nirmal Lifestyle Mulund (Private) Limited and Dharmesh Jain. He further submitted that, the Respondent No.6, Dharmesh Jain, is before the NCLT and the Corporate Insolvency Resolution Process (CIRP) has been appointed in an Application filed by the Creditors.

5) To resolve the entire issue involved in the Petition, we direct the Respondent Nos.5 to 7 to file their Affidavits placing on record their bank account numbers, properties owned/held by them in their personal capacity and in the capacity as Directors of any Company or any Partnership firm. The said Affidavits be filed within a period of two weeks from today.

6) Until further Orders, we direct the Commissioner of Respondent No.9, not to grant Completion Certificate and Occupation Certificate to the project undertaken by the Respondent Nos.5 to 7 being 'Olympia Nirmal Life Style' at Mulund (West), MahaRERA Regn: P51800011870.

It is made clear that, the construction work undertaken by the Respondent No.8 will continue and there is no impediment for Respondent No.8 to continue with the construction as per the contract entered into between the Respondent Nos.5 and 8.

7) Stand over to 11th March, 2026."

3. Thus this Court recorded that the Advocate appearing for

respondent Nos.5 to 7 had submitted that respondent No.5 – M/s. Nirmal Developer was a Partnership firm whose partners were respondent Nos.6 and 7. In pursuance of the Deed of Retirement-cum-Continuation dated 10th June 2015, there are only two Partners namely Nirmal Lifestyle Mulund (Private) Limited and Dharmesh Jain. It was further submitted that respondent No.6, Dharmesh Jain, is before the NCLT and the Corporate Insolvency Resolution Process (CIRP) has been appointed in an application filed by the Creditors. To resolve the entire issue, this Court then directed respondent Nos.5 to 7 to file their affidavits placing on record their bank account numbers, properties owned/held by them in their personal capacity and in the capacity as Directors of any Company or any Partnership firm. The said affidavit was directed to be filed within a period of two weeks from today. Until further orders, this Court directed the Commissioner of respondent No.9 not to grant the Completion certificate and Occupation Certificate to the project undertaken by the respondent Nos.5 to 7 being 'Olympia Nirmal Life Style' at Mulund (West), MahaRERA Regn: P51800011870.

4. Today, learned Senior Advocate submitted that it may not be possible for respondent Nos.5 to 7 to file the affidavit-in-reply. The learned Senior Advocate submitted that since the Resolution Professional was appointed, the respondent Nos.5 to 7 are not in a position to file an affidavit-in-reply. In such view of the matter and having regard to categorical observations made by this Court, it

would be appropriate if the present petition is listed before the Division Bench of Justice Gadkari and Justice Chandak as virtually the respondent Nos. 5 to 7 are seeking recall of the order passed by this Court, liberty to move the same Bench.

6. Liberty to either of the parties to file an application for listing the matter before the Division Bench which passed the order dated 23rd February 2026.

(S.M.MODAK,J.)

(M.S.KARNIK, J.)