

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

WRIT PETITION NO. 904 OF 2024

WITH

INTERIM APPLICATION LODGING NO. 26922 OF 2024

Drishti Hospitality Company Pvt. Ltd. & Anr.Petitioners

Versus

Municipal Corporation of Greater Mumbai & Ors.Respondents

WITH

WRIT PETITION NO. 5001 OF 2024

Mehta Mahal Commercial Co-operative SocietyPetitioner

Versus

Municipal Corporation of Greater Mumbai & Ors.Respondents

Mr. Sharan Jagtiani a/w. Kunal Dwarkadas, Ms. Prachi Dhanani,
Mr. Asim Tirmizi i/b. RJD & Partners, for Petitioners in WP No.
904/2024 & Respondent No. 8 in WP No. 5001/2024.

Mr. Birendra Saraf (Senior Advocate), Mr. Karl Tamboly, Mr.
Hrushu Narvekar a/w. Samit Shukla, Mr. Siddharth Shah, Ms. Sayali
Diwadkar, Mr. Anuj Savla i/b. Trilegal, for Petitioner in WP No.
5001/2024 & Respondent No. 7 in WP No. 904/2024.

Mrs.P.H.Kantharia, GP for State of Maharashtra.

Mr. Ashutosh Gavnekar a/w. Mr. Sagar Patil and Ms. Rupali Adhate,
for Respondent/BMC.

**CORAM : RAVINDRA V. GHUGE &
ABHAY J. MANTRI, JJ.**

DATE : 14th JANUARY, 2026

P.C. :-

1. This Court had heard these Petitions on 09th September
2025, 13th November 2025, and 08th December 2025. By an order

passed on 08th December 2025, this Court recorded an *ex-facie* impression regarding the shifting stand taken by the Corporation, in paragraph Nos. 2, 3 and 4, which reads as under :

- “2. *The Corporation had initially taken a stand through the first TAC report that the structure at issue was in ‘C2B’ category, meaning that eviction is not necessary and it is only repairs that are needed to be carried. Subsequently, the Corporation took a stand before the Lok Aayukta that the structure falls in ‘C-1’ category, which means eviction of the tenants and demolition of the dilapidated structure, to facilitate reconstruction of a new building.*
3. *In April 2024, the building was entered in the list of C-1 category buildings on the Corporation website. Today, the Assistant Commissioner tendered an affidavit dated 27th November 2025 stating two things. Firstly, that it was by inadvertence and mis-communication between the departments that the building at issue (the writ building) was included in the list of C-1 category buildings. The same has now been removed from the said list and entered into the C-2 category list.*
4. *We therefore find that the Corporation is adopting shifting stands for reasons best known to it. We, therefore, direct the Corporation through the Municipal Commissioner, to carefully go through this entire file of the writ property and take a stand in such a manner as the records may justify. So also, we would expect the Corporation to express its view on the statement made before the Lok Aayukta, as well as, the approach of the TAC, which subsequently re-visited the issue and is non-*

committal. If the Municipal Commissioner deems it appropriate, he may also call for an explanation from the TAC for adopting such a stand and the concerned officers who may have taken shifting stands.”

2. Today, the learned Advocate for the Corporation submits that the Affidavit-in-Reply is being processed and is yet to be sworn. Advance copies have not been delivered to the learned Advocates for the Parties before us. This conduct of the Corporation is in the backdrop of the order of the Hon’ble Supreme Court dated 13th May 2025, passed in Special Leave Petition (Civil) Diary No. 24655 of 2024.

3. The learned Senior Advocates, Dr. Saraf and Shri. Jagtiani, are right in submitting that unless they get to read the affidavit of the Corporation, they would be unable to take a decision as to whether a Rejoinder Affidavit needs to be filed. The learned Advocate for the Corporation submits that, by the end of day, the copies of the Affidavit-in-Reply of the Corporation would be served upon the learned Advocates on record on behalf of the litigating parties. Statement is recorded. Leave granted. In the event, any of the parties desire to file a Rejoinder Affidavit, let such Affidavit be filed on or before **28th January, 2026**.

4. After the Affidavit-in-Reply is filed, which would be with proper pagination in continuation with the Petitions and the Rejoinder Affidavits, the Petitioners in both the matters would ensure that the pagination is in continuation and there is no duplication of the pagination.

5. The learned Senior Advocate, Dr. Saraf, submits that, in the event the stand of the Corporation in its Affidavit-in-Reply is adverse to his client, appropriate steps for seeking redressal of the grievance would be adopted.

6. By consent of the Parties, list these Petitions on **11th February, 2026** at 3:00 pm. Both the Petitioners would be extended one hour time for oral submissions and one hour to the Corporation. The Parties are at liberty to tender their written notes of submissions along with case law with proper index and pagination.

(ABHAY J. MANTRI, J.)

(RAVINDRA V. GHUGE, J.)