

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
PUBLIC INTEREST LITIGATION NO. 7 OF 2014
WITH
CHAMBER SUMMONS NO. 74 OF 2015**

Kamayani Bali Mahabal .. Petitioner
vs
Bai Jerabai Wadia Hospital for Children & Ors. .. Respondents

Mr. Vijay Hiremath for the petitioner.
Mr. R.A. Dada, Senior Advocate with Mr. Abhay Tidge i/b Crawford Bayley & Co. for respondent no.4.
Ms. T.H. Puranik for respondent no.2 – BMC.
Mr. Nitin Deshpande for the MPCB.
Mr. G.W. Mattos, A.G.P for respondent no.3 – State.
Mr. Swaraj Jadhav for the intervenor in CHS No.74/2015.

**CORAM: MOHIT S. SHAH, C.J. &
A.K. MENON, J.**

DATE : 25 AUGUST 2015

P.C.:

Leave to make correction in the cause title by showing the following party instead of Wadia Trust as respondent no.1.

“Bai Jerabai Wadia Hospital for Children”

2. In our order dated 26 July 2015, we had recorded the statement of Mr. Mattos, learned A.G.P, that the Directorate of Health Services will consider the application of the respondent hospital for running an Organ Transplant Centre at Nowrosjee Wadia Maternity Hospital.

3. On behalf of respondent no.1, Dr. Minnie Bodhanwala, Chief Executive Officer, has filed an affidavit dated 19 August 2015 placing on record, inter alia, the Certificate of Registration dated 23 July 2015 of the Appropriate Authority and Director of Health Services, Government of Maharashtra indicating that the certificate necessary for performing the kidney transplantation at its hospital at Parel, Mumbai has been granted.

4. This PIL was filed by a public spirited citizen seeking directions to the respondents to complete the repairs, modernization and refurbishment of Bai Jerabai Wadia Children's Hospital, Near KEM Hospital, Acharya Dhonde Marg, Parel, Mumbai within a stipulated time limit. Since the repairs and renovations of the hospital building have already commenced, respondent no.1 had shifted its services to nearby premises of Nowrosjee Wadia Maternity Hospital at Parel, Mumbai. The petitioner had, therefore, sought a direction to respondent no.1 to shift the children's hospital back to its premises at Bai Jerabai Wadia Children's Hospital, Acharya Dhonde Marg, Parel, Mumbai.

5. The petitioner's apprehension was that the respondent Trust might create third party rights in the original premises at Acharya Dhonde Marg, Parel, Mumbai and, therefore, the petitioner sought a permanent injunction against the respondents from creating any third party rights in the original premises of respondent no.1

hospital at Acharya Dhonde Marg, Parel, Mumbai. The petitioner also prayed that the said premises should not be used for any purpose other than the children's hospital.

6. Mr. Rafique Dada, learned Senior Advocate appearing for respondent nos.1 and 4, on instructions from Dr. Minnie Bodhanwala, CEO of Bai Jerabai Wadia Children's Hospital and on the basis of averments made in the affidavit in reply of Dr. Minnie Bodhanwala, states that the repairs, modernization and refurbishment of the hospital already commenced by respondent no.1 hospital are well underway and that Bai Jerabai Wadia Children's Hospital Trust shall endeavour to complete the repairs, modernization and refurbishment work by 31 March 2016. Various stages of work have been completed as indicated in the aforesaid affidavit and have already been referred to in the order dated 10 February 2015.

The learned Senior Advocate further states that after the repairs, modernization and refurbishment, the hospital would be a state-of-art facility and would be able to render better treatment and facilities to the under privileged in fulfillment of objectives under the Trust Deed.

The learned counsel further states that now the Trust is not to receive any further funds from the Municipal Corporation, but funds are to be received from the State Government.

7. In view of the aforesaid statements being made on behalf of Bai Jerabai Wadia Children's Hospital, we direct that upon completion of repairs, modernization and refurbishment, respondent no.1 hospital will apply to all concerned authorities for granting them necessary permissions and clearances under the relevant statutory provisions and the concerned authorities shall consider the application/s of respondent no.1 hospital with utmost expedition and preferably within one month from the date of receipt of the application.

Accordingly it should be possible for Bai Jerabai Wadia Children's Hospital to shift to their original premises at Acharya Dhonde Marg, Parel, Mumbai by 30 April 2016 or latest by 15 May 2016. All the respondents and the concerned authorities shall act accordingly to comply with the aforesaid time limit.

8. As regards the apprehension that Bai Jerabai Wadia Children's Hospital Trust may create third party rights in the premises at Acharya Dhonde Marg, Parel, Mumbai, learned senior counsel Mr. Dada states under instructions of CEO of respondent no.1 hospital that the Bai Jerabai Wadia Children's Hospital Trust will not create any third party rights in the said premises and that the said premises will be used for running a hospital and for ancillary purposes as provided in the Trust Deed.

9. In case any grants are payable by the State Government to Bai Jerabai Wadia Children's Hospital Trust for running the children's hospital, the State Government shall release the grants. It will be open to the Trust running the children's hospital or the Trust running the maternity hospital to request the State Government to release any grant in arrears and if such a representation is made within one week from today, the State Government shall take the necessary decision and release the grant within one month from the date of the application.

10. The PIL stands disposed of.

11. The compliance report shall be submitted by respondent no.1 by 30 April 2016.

12. In view of disposal of the PIL, the chamber summons does not survive and stands disposed of.

The parties and the concerned authorities to act on a copy of this order duly authenticated by the Associate of this Court.

CHIEF JUSTICE

(A.K. MENON, J.)