

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

WRIT PETITION NO. 2836 OF 2014

Vishwanath V. Gondhalekar & anr. ... Petitioners.
Versus
Municipal Corporation of Greater
Mumbai & ors. ... Respondents.

Ms. Sumedha Rao, advocate for petitioners.

Mr. M.M. Malvankar, advocate for respondent Nos. 1 to 3.

Mr. Sameer Tendulkar, advocate for respondent No. 4.

CORAM : B.R. GAVAI & A.S. GADKARI, JJ
DATE : APRIL 15, 2015

P.C.:

1 The Petitioners have approached this Court praying for a direction to respondent Nos. 2 and 3 to launch prosecution against respondent No. 4. The Petitioners also pray for mandatory directions directing the respondent Nos. 2 and 3 to seal the premises of Gondhalekar Children's Hospital, Mary land Corner, Opp. Sion Bus Depot, Sion, Mumbai 400022. It appears that the basic contention of

the petitioners is that the respondent No. 4 is running nursing home though the licence for the same has been cancelled by the Corporation.

2 It appears that originally nursing home licence is granted in favour of the Petitioner No. 2. We do not want to go into the issue as to how the respondent No. 4 is in possession of the said nursing home. The issue is required to be considered upon adjudication of evidence. However, it appears that taking into consideration the grievance raised by the Petitioners, the Division Bench vide order dated 4th March, 2015 had directed the Corporation to inspect the premises and to find out as to whether the nursing home is being run by the respondent No. 4 or not.

3 Affidavit of one Smt. Charulata H. Jakhia, working as Medical Officer of Health, F/N Ward is filed wherein it is stated that in pursuance of the directions issued by this Court, Medical Officer, Health F/N Ward alongwith sanitary inspector at 1.30 p.m. on 23rd

March, 2015. It is further stated that on inspection it is noticed that out of 8 rooms, 6 rooms were locked and scrap materials were kept inside. It is further submitted that in one room Dr. Parshuram respondent No. 4 was conducting the out patient activity and the hall is used as waiting room for the patients. No indoor patients were seen during the visit. It is further stated in the affidavit that if any doctor is conducting only outpatient activity and not admitting the patients, these respondents do not have any authority to initiate any action against that clinic nor any authority to seal the clinic or nursing home.

4 Since it is clear from the report of the Corporation that the respondent No. 4 is not running nursing home, we do not find that the relief claimed in the Petition can be granted. However, we make it clear that we are not observing any opinion on the correctness or otherwise on the report submitted by the Corporation. The said fact requires to be determined on the basis of evidence led by the rival parties in appropriate proceedings. In that view of the matter, the

Petitioners are relegated to take appropriate remedy available to them in law.

5 Writ Petition is disposed of accordingly.

(A.S. GADKARI, J)

(B.R.GAVAI,J)