

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

WRIT PETITION NO. 4075 OF 2022

Nirmal Co-operative Housing Soc. Ltd. ... Petitioner
Versus
The Municipal Commissioner of Greater
Mumbai and Ors. ... Respondents

Mr. Vishal Thadani for the Petitioner.
Ms. Madhavi Tavanandi a/w Ms. Pooja Yadav for the Respondent
Nos. 1 to 4.
Ms. Uma Palsuledesai, AGP for the State.

**CORAM : G. S. KULKARNI &
R. N. LADDHA, JJ.**

DATE : 25th APRIL, 2023.

P.C. :-

. Heard learned Counsel for the petitioner and learned
Counsel for the Municipal Corporation.

2. By this petition, the petitioner has been prayed for the
following reliefs :-

“(a) Rule may kindly be issued in the present writ
petition;

(b) That this Hon’ble Court be pleased to issue a Writ
of Mandamus or a writ in the nature of Mandamus or
any other appropriate Writ, Order or Direction of this
Hon’ble Court directing the Respondent Nos. 1 to 4

immediately to allow the application dated 25/10/2021 filed by the Petitioner Society for utilization of additional TDR of 75 sq.mts. General TDR out of DRC No. 001033 and 45.34 sq.mts. Slum TDR out of DRC No. SRA/1414/Land upon CTS No. 465, 465/1-4 in accordance with the Development Control Rules and to take over the set back area of land;

(c) That this Hon'ble Court be pleased to issue a Writ of Mandamus or a writ in the nature of Mandamus or any other appropriate Writ, order or Direction of this Hon'ble Court directing the Respondent Nos. 1 to 4 immediately to remove the unauthorised encroachments and construction on the Siddharth Colony leading to the Petitioner Society in order to provide access to the Fire Tenders and Ambulances;

(d) That pending the hearing and final disposal of the present writ petition, the Respondent Nos. 1 to 4 be directed to remove the unauthorised encroachments and construction on the Siddharth Colony leading to the Petitioner Society in order to provide access to the Fire Tenders and Ambulances;

(e) That pending the hearing and final disposal of the present writ petition, the Respondent Nos. 1 to 4 be directed to grant permission for utilization of additional TDR of 75 sq.mts. General TDR out of DRC No. 001033 and 45.34 sq.mts. Slum TDR out of DRC No. SRA/1414/Land upon CTS No. 465, 465/1-4 in accordance with the Development Control Rules to the Petitioner Society;

(f) That ad-interim reliefs in terms of prayer clauses (d) & (e) above be granted;

(g) The costs of this writ petition be provided for;

(h) That such further and other reliefs as may be necessary in the interest of justice be granted.”

3. Reply-affidavit on behalf of the Municipal Corporation is placed on record.

4. Considering the nature of prayers, we are of the opinion that the petitioner needs to make an independent representation insofar as the utilization of additional TDR is concerned, as set out in prayer clause (b) to the Designated Officer of the Municipal Corporation. The petitioner also needs to make an independent representation in regard to the encroachment insofar as the relief as prayed for in prayer clause (c) is concerned. Let such representations be made within one week from today and if the same are made, then let the same be decided by the concerned Designated Officers of Municipal Corporation within the period of four weeks from the receipt of said representation, after granting an opportunity of a hearing to the petitioner and a reasoned order in that regard be passed. All contentions of the parties are expressly kept open.

5. The writ petition stands disposed of in the above terms. No costs.

[R. N. LADDHA, J.]

[G. S. KULKARNI, J.]