

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.1071 OF 2024**

Manoj Vishandas Bellani

...Petitioner

Versus

The Mumbai Municipal Commissioner,
Municipal Corporation of Greater Mumbai &
Ors.

...Respondents

Adv. Yahya Ghogari a/w Mustafa Shabbir Shamim, Gauri Sakpal
i/by Shamim & company, *for the Petitioner.*

Adv. R. M. Hajare i/by Sunil Sonawane, *for the Respondent-BMC.*

Adv. Uma Sharma i/by Dharam & Company, *for Respondent Nos.7
& 8.*

Adv. Sandeep Waghmare, *for Respondent Nos.9 & 10.*

**CORAM M.S. Sonak &
 Arif S. Doctor, JJ.
DATED: 6th August 2024**

PC:-

1. Heard Learned Counsel for the parties.

2. The Petitioner's grievance is that the BMC is not taking any cognisance of the Petitioner's complaint dated 10th October 2019 regarding some illegal construction undertaken by Respondent Nos.9 and 10 in respect of Shop Nos.1 and 2 and Office Nos.11 & 12 of the property namely Devki Niketan (Formerly known as Sethna

Building), Street No.396/402, Sheikh Memon St, on the junction of Kitchen Garden Lane (Trikamji Ghia Lane), Next to Mangaldas Market, Mumbai – 400002.

3. Once complaints are made about illegal constructions, the BMC is duty bound to look into such complaints and find out whether there is *prima facie* merit. If there is *prima facie* merit in the sense that illegal constructions have been carried out, then it is the duty of the BMC to act against the illegal constructions. This is more because the Petitioner and Learned Counsel for Respondent Nos.7 and 8 have pointed out that this is 100 years old building.

4. Learned Counsel for Respondent Nos.9 and 10 submits that the Respondents, whom he represents, have not carried out illegal constructions but carried out constructions with the permission of co-owners, viz., Respondent Nos.7 and 8. If the constructions were carried out with permission from the BMC, it is open to Respondent Nos.9 and 10 to produce such permission to the BMC.

5. However, considering the complaints and inaction on the part of the BMC, we direct the BMC Officials to inspect the premises within two weeks from today. If the BMC Officials find that there are illegal constructions carried out, then the BMC must initiate action in terms of the law against such illegal constructions. The BMC must comply with the principles of natural justice and fair play before taking any action. However, BMC cannot simply refuse to take cognisance of the complaints against illegal constructions and derelict in the discharge of its statutory duties and functions. If

the inspection reveals *prima facie* illegal constructions, the BMC must initiate action and complete such action within four months from today.

6. All contentions of all parties on the issue of illegal constructions are kept open.

7. This Petition is disposed of in the above terms. There shall be no order as to costs.

8. All concerned to act on an authenticated copy of this order.

(Arif S Doctor, J)

(M. S. Sonak, J)