

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 783 OF 2025

Sai Kutir Co. Op. Housing Society, thr.
Its Chief Promoter and Anr.

...Petitioners

Versus

The Navi Mumbai Municipal Corporation & Ors.

...Respondents

WITH
INTERIM APPLICATION NO. 9386 OF 2025
IN
WRIT PETITION NO. 783 OF 2025

Mr. Mayur Khandeparkar a/w Swati Sawant i/b S. K. Legal Associates LLP for
Petitioner.

Mr. Jeetenndra Sachhdev a/w Aniket Gharat i/b JS Legal for Respondent No.3.

Mr. Suresh Sabrad a/w Amey Sawant & Mr. Pratik Sabrad for Respondent Nos.4 &
5.

Mr. Tejash Dande a/w Bharat Gadhavi for Respondent Nos.1 & 2.

Mr. Vishvajit Suresh Kohakade, Asst. Town Planner, Navi Mumbai Municipal
Corporation, present.

CORAM: G. S. KULKARNI &
ARIF S. DOCTOR, JJ.

DATE: 03 JULY 2025

P.C.

1. This petition under Article 226 of the Constitution of India is filed praying
for the following substantive reliefs:-

"a) That this Hon'ble Court be pleased to issue writ of mandamus and/or any
other appropriate writ or orders under Article 226 and 227 of the
Constitution of India and direct the Respondent No.1 corporation to
forthwith act on the complaints being complaint dated 09/07/2022,
10/07/2024 and 26/09/2024 (Exhibit "J", "L" and "Q" respectively)
addressed by the Petitioners and forthwith take action for demolition and/or
removing the illegal and unauthorised changes, alteration or construction
carried out in the said Building.

b) that this Hon'ble Court be pleased to issue writ of mandamus and/or any
other appropriate writ or orders under Article 226 and 227 of the
Constitution of India and direct the Respondent No.1 and/or their concerned

department or officers not to accept and/or consider or grant any application for change, alteration and construction in the said Building in contrary to the approved plan and not to consider or grant any permission for change of user for permitting Respondent No.4 and 5 to use the premises being premises for hospital or any other related activities.”

2. We have heard learned counsel for the parties on the backdrop of our order dated 30 June 2025, the said order reads thus:-

“1. List this petition on **3rd July 2025** to enable the Municipal Corporation to place on record an additional affidavit in regard to the contention of the petitioner that there is no separate stair case / access to the nursing home premises of respondent nos.4 and 5. Let an affidavit be also placed on record on behalf of respondent nos.4 and 5 to point out that there is a separate access and more particularly in terms of the requirement of Regulation 4.3(5) of the UDCPR 2020. Respondent nos.4 and 5 would also incorporate an undertaking that they shall restrict the operation of the nursing home strictly in terms of what has been provided for in the said Regulation that is confining the nursing home to beds not exceeding 20, as also an undertaking that the notices issued to respondent nos.4 and 5 by the Municipal Corporation under Section 53(1) of the MRTP Act in regard to the alleged unauthorised alterations, shall be complied and the premises shall be restored complying with such notices except for the permissible internal alterations. The affidavit should contain an undertaking that the nursing home shall not be functional unless an appropriate registration for the nursing home is granted by the Municipal Corporation.

2 We also record a statement made by Mr. Sabrad learned counsel for respondent nos.4 and 5 that as on date his clients are not functioning as a nursing home and the activity is only of OPD / consultation. Statement is accepted.”

3. In pursuance of our aforesaid order, on behalf of the Municipal Corporation, an affidavit of Shri. Somnath Kekan, Assistant Director of Town Planning, Navi Mumbai Municipal Corporation is placed on record in which in paragraph Nos.4, 5 & 6 the following statements are made:

“4. I further say that as per the sanctioned plan the approach to the said Commercial units on the 1st Floor, there are 2 separate and independent Staircases in the said building, one on North side and the other on South side of the building. Further, 2 independent lifts are also provided to reach only upto 1st Floor. It is also required to be noted that the said 2 independent staircases are provided exclusively for approaching the Commercial premises

on the 1st Floor of the said building. Hereto annexed and marked as Exh."A" are the photographs of the said Staircase located on North and South Side of the Building.

5. I further say that as per the Occupation Certificate, the Residential units are provided from 5th Floor of the said building consisting of two wings 'Radhe Wing' and 'Krushna Wing'. I further say that in order to approach the said Residential portion of the building, as per the sanctioned plan there are 2 separate and independent staircases and 4 lifts provided in the said building. It may also be noted that in the said building, the floors of Commercial usage and the floors for Residential usage are completely separate and independent, and they are having separate means of access of staircase from within the building for their respective use as required under Regulation 4.3(v) of the UDCPR, 2020.

6. I further say that as mentioned in the Affidavit in Reply filed by the NMMC, the NMMC has already issued a 'No Objection' for making internal changes in Office Nos. 1 to 6 on the 1st Floor of the said building and also for using the said offices for Nursing Home purpose in favour of M/s. Dr. Tadvi Multi-Specialty and Maternity Hospital."

4. It is thus clear that there is a separate access which is available to the premises of respondent Nos.4 & 5 that is the Nursing Home premises of these respondents. Respondent Nos.4 & 5 have also placed on record a modified affidavit dated 3 July 2025, wherein, in paragraph No.2, it is stated that the first floor / the Nursing Home premises belonging to these respondents is equipped with two separate staircases on either side of the main entrance, as well as two designated lifts that service only these floors. In this affidavit, they have also given the following undertaking :

- (i) to operate the Nursing Home in strict compliance with regulation 4.3 (5) of the UDCPR 2020, to ensure that the total number of beds does not exceed 20.
- (ii) that the Nursing Home is not commence operative still the appropriate registration is operate from the Navi Mumbai Corporation.

(iii) to adhere to the notice issued by the Navi Mumbai Corporation under Section 53 (1) of the MRTP Act concerning the unauthorized alterations and that necessary steps will be take into restore compliance as contemplated by the said notice.

5. We accept the said undertaking as furnished on behalf of respondent No.4 & 5 on affidavit.

6. Let appropriate compliances under the notice issued to respondent Nos.4 & 5 under Section 53 (1), be undertaken as expeditiously as possible and in any event, before 30 July 2025.

7. In this view of the matter, further adjudication of the petition is not called for.

8. Insofar as any other issues in regard to any other notices under Section 53 (1) being issued to the members of the petitioner are concerned, the same shall also be complied, to which Mr. Khandeparkar also has fairly agreed that they shall comply by 30 July 2025, if these persons do not apply for regularization.

9. We expect that the petitioner society and/or its managing committee members or members as also respondent Nos. 4 & 5 who would become members to amicably resolve all the issues which may arise.

10. Disposed of. No costs.

11. Interim application would not survive, the same is accordingly disposed of.

(ARIF S. DOCTOR, J.)

(G. S. KULKARNI, J.)