

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4193 OF 2025

Panacea Hospital
Versus
Panvel City Municipal Corporation Thr.
Legal Dept. And Ors.

...Petitioner
...Respondents

Mr. Shardul Singh a/w Sayali Sawant, Ninad Thikekar & Smeet Savla for
Petitioner.

Mr. Ashutosh Kulkanri i/b Mr. Vaibhav GAikwad for Respondent No.3.

Mr. Jagdish Aradwad (Reddy) for Respondent Nos.1 & 2.

Dr. Anand Gosavi, Medical Officer, Panvel Municipal Corporation - Present.

CORAM: G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.

DATE: 02 APRIL 2025

P.C.

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

"a. This Hon'ble Court be pleased to issue a Writ of Certiorari, or any other writ, order or direction in the nature thereof calling for the records and proceedings pertaining to the Impugned Communications dated 12 March 2025 and after going through the legality, validity and propriety of the same, this Hon'ble Court be pleased to quash and set aside the same.

b. This Hon'ble Court be pleased to issue a Writ of Mandamus, or any other writ, order or direction in the nature thereof directing Respondent Nos.1 and 2 to allow the Petitioner's application for renewal dated 24 February 2025 and issue a renewal certificate as per the said Act and the said Rules."

2. It is not in dispute that the petitioner is running a hospital from the premises which are subject matter of dispute between the petitioner and respondent No.3. The case of the petitioner is that the petitioner was granted such premises on leave and license by respondent No.3. The dispute in regard to the termination and/or subsistence of the leave and license is subject matter of Special Civil Suit No.228 of 2017 and Special Civil Suit No.229 of 2017, pending before the Court of Civil Judge, Senior Division at Panvel, District Raigad.

3. The cause with which the petitioner is before the Court is in regard to the renewal of the petitioner's registration as granted by respondent No.1/Panvel City Municipal Corporation under the provisions of Maharashtra Nursing Home Registration Act, 1949 read with the Maharashtra Nursing Home Registration Rules, 1973. Such application of the petitioner is pending consideration with respondent No.1. In such context respondent No.1 has raised an objection in regard to the petitioners right to possess / occupy the premises in question and more particularly, in the light of the dispute between the petitioner and respondent No.3. We are informed that the relief which is prayed for in the Civil Suit is for a declaration that the license as granted in favour of the petitioner stands terminated and that the petitioner would not have any legal right to occupy

that premises. The prayer as made in the plaint which is common in both suits, however for different floors reads thus:

"(Translation of a photocopy of Paragraph No. 36, being a MARKED PORTION, typewritten in Marathi)

ii) It may be declared that all three Agreements viz. the 'Registered Leave and Licence Agreement' dated 10.09.2013 (Instrument No. 7808/2013) in respect of the Suit Property i.e. Commercial Unit / Office No.1 and the alleged Agreement dated 10.09.2013 under the title viz. 'Agreement of Better Amenities / Compensation Charges / Services' and the alleged 'M.O.U.', dated 10.09.2013 entered into in connection therewith, are terminated, have become cancelled permanently and may be terminated permanently."

4. We are also informed that respondent No.2 has issued a show cause notice dated 12 March 2025 as to why the petitioners registration ought not to be cancelled. The registration was valid upto 31 March 2025 and certainly on the date the petition was filed on 19 March 2025. The show cause notice has raised certain issues apart from the issues on the leave and license agreement.

5. This is the complexion of the proceeding before us. We have accordingly heard learned counsel for the parties.

6. It appears to be not in dispute that the petitioner, as on date is in possession of the premises and that the Civil Suit(s) in regard to the leave and license granted to the petitioner, are pending qua the reliefs which we have noted hereinabove. We do not intend to comment or delve on such issues which are subjudice in the said Civil Suit, suffice it to observe that primary concern before us is in regard to the renewal of the nursing home registration

of the petitioner and in respect of which the respondent Nos.2 needs to take appropriate steps to consider the same in accordance with the provisions of the said Act and the Rules.

7. In the aforesaid circumstances, we are of the opinion that in so far as the dispute on the leave and license is concerned that ought not to be subject matter of consideration and/or an issue on which respondent No.2 can form an opinion on the rival rights, which are subject matter of determination in the pending Civil Suits, in deciding the petitioner's application for renewal of the registration as filed by the petitioner. However, if there are any other compliances which the law would mandate and more particularly considering the facts that the premises are being used for hospital inter alia concerning the legality of the premises and/or safety of the patients and all those who would visit and work in the premises, such conditions would be required to be mandatorily complied in use of such premises as a hospital. It is to such extent, leaving aside the issues on the right of the petitioners to be in possession and/or the rights of the petitioners in regard to the premises, respondent No.2 shall proceed to adjudicate the show cause notice.

8. Insofar as the leave and license agreements and the dispute in that regard, which is subject matter of the pending Civil Suits in our opinion, it is appropriate that the rights and contentions of both respondent No.3 - the licensor and the petitioner - licensee need to be expressly kept open,

including the liberty to respondent No.3 to seek any appropriate application for any interim reliefs as may be permissible in law. Accordingly, we keep open all contentions of the parties in the pending suits and which shall be considered by the learned Civil Judge and adjudicated in the proceedings either on interim or final reliefs.

9. Insofar as the show cause notice is concerned, we direct respondent No.2 to adjudicate the show cause notice in accordance with law and in the light of the aforesaid observations as made by us. We permit the petitioner's to file a reply to the show cause notice which be filed within a period of two weeks from today. Respondent No.3 is permitted to participate in the adjudication of the show cause notice. The petitioner and respondent No.3 be granted an opportunity of a personal hearing. The petitioner be accordingly heard and a decision on the show cause notice be taken within a period of four weeks of submission of the reply.

10. All contentions of the parties on the show cause notice are expressly kept open.

11. In the light of the aforesaid orders and observations, we direct respondent No.1 and 2 to renew the petitioners registration and which shall be subject to the orders which would be passed on the proceedings of the Civil Suit as also on the show cause notice.

12. Needless to observe that in the event, any order adverse to the petitioner is passed either in the Civil Suit or in the show cause notice, the corporation shall not take any coercive steps for a period of ten days from the date of passing of such order.

13. In view of the aforesaid orders, further adjudication of the petition is not called for. The petition stands disposed of in the aforesaid terms. No costs.

(ADVAIT M. SETHNA, J.)

(G. S. KULKARNI, J.)