

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

REVIEW PETITION NO.5 OF 2025
IN
APPEAL FROM ORDER NO.164 OF 2022

Ali Abdul Rehman Mansuri and ors. ... Petitioners
V/s.
The Municipal Corporation of Greater
Mumbai and ors. ... Respondents

Mr. Anil Y. Sakhare, Senior Advocate with *Ms. Indira Labde* and *Mr. Rohan Mirpur*, Advocates for the Petitioner.

Mr. Narendra V. Walawalkar with *Mr. Om Suryawanshi*, Advocates for the Respondent-MCGM.

Mr. Y. M. Marathe, A.E. (B & F) "B" ward is present.

CORAM : SANDEEP V. MARNE, J.

Dated : 13 February, 2025.

P.C. :

1. Petitioners have filed the present petition seeking review of order dated 19th October, 2023 passed in Appeal From Order No.164 of 2022.

2. I have heard Mr. Sakhare, learned senior advocate appearing for the Petitioners and Mr. Walawalkar, learned senior advocate appearing for the Respondent-MCGM.

3. It must be noted at the very outset that the present petition is not filed by any of the parties to Appeal From Order (AO) No.164 of 2022. The

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Petitioners' herein are neither Plaintiffs in the L.C. Suit No.1327 of 2022 filed before the City Civil Court nor they were parties in AO No.164 of 2022. Therefore, their locus for filing the present Review Petition itself is questionable. However, even if issue of locus of the Petitioners to maintain the present Review Petition is ignored, and which in fact is ignored by hearing Mr. Sakhare on merits of the Review Petition, I am unable to locate any error apparent on record any order under review. The review is sought essentially on the ground that this Court doubted authenticity of the Commencement Certificate dated 23rd March, 1961 while dismissing the AO and now copy of the said Commencement Certificate dated 23rd March, 1961 obtained under the Right to Information Rules, 1965 is sought to be produced before me. However, perusal of the order dated 19th October, 2023 would indicate that the doubt expressed by the Municipal Officers about authenticity of the said Commencement Certificate dated 23rd March, 1961 was one of the insignificant factor taken into consideration by this Court. The AO has essentially been dismissed after taking into consideration the conduct of the Appellants who brazenly added 8 floors to the existing building by taking disadvantage of the stay order by the City Civil Court. This Court has noted the fact that the construction put up by the Plaintiff was demolished by the Municipal Corporation on several occasions and the Plaintiff went on reerecting unauthorized construction immediately after completion of the process of demolition. The City Civil Court had stayed further demolition of the order dated 27th December, 2021 in order to enable the Municipal Corporation to consider Plaintiff's reply to the demolition notice and for passing a speaking order. By the time, speaking order was passed on 24th January, 2022, Plaintiff misused the stay order dated 22nd December, 2021 and added 8 floors to the building. On this

broad consideration, the AO came to be dismissed by this Court by order dated 19th October, 2023. Now non-parties to the suit, who claim themselves to be the tenants of the building, want to demonstrate before this Court several additional documents to justify legality of construction. I am afraid, it would be beyond the jurisdiction of this Court to look into new documents which were not produced before the Trial Court while passing the impugned order, nor were produced before this Court, when the AO was decided. Petitioners have filed the present Review Petition as they have not been able to secure any interim injunction in their favour in independent suit filed by them after passing of the order dated 19th October, 2022. A separate (AO No.749 of 2024) was filed by the Petitioners before this Court challenging the decision of the City Civil Court refusing to grant any interim injunction. Instead of demonstrating either before the City Civil Court or before this Court that the structure is authorized, Petitioners withdrew AO No.749 of 2024 and have applied for review of order dated 19th October, 2023. In limited jurisdiction of review, this Court cannot conduct a re-inquiry and sit in appeal over order dated 19th October, 2023 by permitting the Petitioners to produce series of fresh documents to demonstrate that the construction carried out by the Plaintiff is legal.

4. I therefore do not find any reason to review the order dated 19th October, 2023.

5. Review Petition is accordingly rejected.

(SANDEEP V. MARNE, J.)