

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

WRIT PETITION NO. 1088 OF 2024

Multilink House Premises Cooperative Society Ltd. ...Petitioner
Versus
The State of Maharashtra & Ors. ...Respondents

Mr. Ashok M. Saraogi for Petitioner. _____

Mr. Uma Palsuledesai, AGP for State-Respondent Nos. 1 to 4.

Mr. Manish Pable a/w Ms. Rupali Adate i/b Komal Punjabi for Respondent Nos. 5 and 6-BMC.

Mr. Amit A. Patil i/b Parinam Law Asso. for Respondent Nos. 9 to 11.

Mr. Aditya Jog, Jr. Engineer (B&F) from H/West ward is present.

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

DATE: 11th JUNE 2025

P.C.

1. The Petitioner has filed the present Petition under Article 226 of the Constitution of India, seeking the following substantive relief:

“(a) That this Hon’ble Court be pleased to issue appropriate writ order and direction directing the Respondents to further take action in respect of illegal construction, structure damage to the building, service of liquor and Narcotics substance and the other illegal activities carried by the Respondent No. 9 to 11 at the premises situated on the ground floor of the building known as Multilink House Premises Co-op. Society Limited,, in accordance with law.”

2. We have heard the learned Counsel for the parties.

3. Mr. Saraogi, learned Counsel appearing for the Petitioner, contends that the Petitioner which is a housing Society is constrained to file the present Petition on account of illegal and unauthorized construction carried out by Respondent Nos. 9

and 10 who are not the members of the Society, and also have carried out such illegal construction on Petitioner Society's Land.

4. Mr. Saraogi submits that the unauthorized construction carried out by Respondent Nos. 9 and 10 has significantly reduced the Society's open space and amongst other things, obstructed the smooth movement of fire emergency services. He asserts that these encroachments have been repeatedly brought to the attention of Respondent No. 1, yet no action has been taken by the Respondent authorities. He drew our attention to various representations made to the Respondent authorities, which he claims, have not been addressed.

5. It is also Mr. Saraogi's contention that Respondent No. 9 and 10 are indulging into other illegal activities at the premises in question. It is thus submitted that the Petitioner is compelled to approach this Court and seek the aforesaid relief.

6. Learned Counsel appearing on behalf of Respondent Nos. 5 and 6 disputes Mr. Saraogi's contentions insofar as they pertain to any inaction on the part of Respondent Nos. 5 and 6 referring to the Affidavit in Reply filed by Respondent No. 6, he submits that the Respondent authorities, have infact issued a notice dated 27th February 2025, to the Petitioner and Respondent Nos. 9 and 11 in regard to the unauthorized work carried out by them. He thus submits that the grievances of the Petitioners are misplaced, and the petition misconceived.

7. *Similarly*, Mr. Patil, appearing on behalf of Respondent Nos. 9, 10, and 11 (the contesting Respondents), denies that any unauthorized work has been carried out by his clients. While he does not dispute the notice dated 27th February 2025, he submits that the contesting Respondents shall duly respond to it. He submits that

the Petition has been filed for a vested and ulterior reason as also the allegations as made by the Petitioner are untenable and reckless. Mr. Patil emphasizes that only the business of Brewcrafts Micro Brewing Pvt. Ltd., which is fully licensed, is being conducted from the premises. He, therefore, seeks the dismissal of the Petition.

8. After hearing the learned Counsel and perusing the record, we find that the Petitioner's primary grievance appears to be the alleged inaction of the Respondent authorities in addressing the complaints regarding illegal/unauthorized construction by the contesting Respondents. However, the record clearly indicates that Respondent No. 6 has issued a notice dated 27th February, 2025, to the contesting Respondents. In light of this, it cannot be asserted at this stage that no action has been taken by the Respondent authorities. Such notice having been issued, would thus have to be taken to its logical end.

9. We thus dispose of the Petition as follows:

- i. Respondent No. 6 shall, by a reasoned order after hearing all concerned, take a decision on the notice dated 27th February, 2025 within a period of three months from today.
- ii. No Costs.

(ARIF S. DOCTOR, J.)

(G. S. KULKARNI, J.)