

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

WRIT PETITION NO.1107 OF 2025

Bharat Keshavji Chheda	]	
Age: 65 Years, Occ.: Business	]	
Residing at 1502 Poorna Apartment,	]	
Andheri Link Road, Sundarvan Complex,	]	
Mumbai - 400 053.	]	... Petitioner

V/S.

- | | | | |
|----|--------------------------------------|---|------------------|
| 1. | The Maharashtra Housing and Area |] | |
| | Development Authority (MHADA) |] | |
| | Through its Vice President and Chief |] | |
| | Officer, Having Office at MHADA, |] | |
| | Grihanirman Bhavan, Kalanagar, |] | |
| | Bandra (E), Mumbai - 400 051. |] | |
| 2. | The Mumbai Housing and Area |] | |
| | Development Board (MHADB) |] | |
| | Through its Chief Officer, Having |] | |
| | Office at MHADA, Grihanirman |] | |
| | Bhavan, Kalanagar, Bandra (E), |] | |
| | Mumbai - 400 051. |] | |
| 3. | The Chief Officer, Mumbai Housing |] | |
| | and Area Development Board |] | |
| | (MHADB) |] | |
| | Having Office at MHADA, |] | |
| | Grihanirman Bhavan, Kalanagar, |] | |
| | Bandra (E), Mumbai - 400 051. |] | |
| 4. | The Executive Engineer, Kurla |] | |
| | Division, Mumbai Housing and Area |] | |
| | Development Board (MHADB). |] | |
| | Having Office at Grihanirman |] | |
| | Bhavan, Kalanagar, Bandra (E), |] | |
| | Mumbai - 400 051. |] | ... Respondents. |

Mr. Aditya P. Shirke i/by Adv. Shivraj Patne for the Petitioner.

Mr. Akshay Shinde for the Respondent-MHADA.

CORAM : KAMAL KHATA, J.
RESERVED ON : 25th September, 2025.
PRONOUNCED ON : 17th October 2025.

Judgment :

1) The Petitioner challenges the *ex-parte* order dated 7th January 2025 passed by Respondent No.4 directing him and/or his assignee to vacate the subject premises within 48 hours, failing which the premises namely, Building No.5, Shop No.2, Panchratna Co-operative Housing Society, Nehru Nagar, Kurla (E), Mumbai- 400 024 would be sealed by the Maharashtra Housing and Area Development Authority (“MHADA”). The grievance is that the order was passed without notice or hearing, allegedly offending principles of natural justice and entailing adverse civil consequences.

2) Mr. Shinde, learned Advocate for MHADA, seeks vacating of the ad-interim relief granted on 8th January 2025, submitting that the building in which the Petitioner commenced commercial use lacks an Occupation Certificate (“OC”). He points out that Respondent No.1 thereafter passed an order dated 7th October 2025 directing immediate vacation. He also submits that the ad-interim order of 8th January 2025 was obtained without effective notice to the

Respondents.

3) Mr. Shirke, learned Advocate for the Petitioner, submits that the Petitioner executed a lease dated 23rd February 2024 with Jammu & Kashmir Bank (“the Bank”) in respect of the premises. He contends that the impugned order of 7th January 2025 was passed behind the Petitioner’s back, and seeks six months’ time to vacate, citing public inconvenience if the Bank branch is closed abruptly.

4) Having heard both sides and perused the record, the following conclusions emerge.

5) The sole ground urged in the Petition is breach of natural justice for want of notice prior to the order dated 7th January 2025. On a pointed query as to how the Petitioner inducted a Bank under a commercial lease into a premises admittedly lacking an OC, there was no satisfactory answer. The Petitioner attributes possession to the developer, Parsn Construction and Developers Pvt. Ltd., but that does not absolve him of the basic obligation to ensure lawful occupation. A person engaged in business cannot feign ignorance of the fundamental requirement of an OC for occupation and commercial use.

6) Matters are aggravated by the fact that a public-facing Bank branch was commenced in such premises. The Bank’s ‘responsible’ officers owed a duty of diligence to verify statutory compliances,

including OC and fire NOC, prior to opening the branch. Having failed to do so, the Petitioner or the Bank cannot invoke natural justice to prolong an unlawful occupation or claim indulgence on the footing of “public inconvenience” of its own making. The impugned order is of 7 January 2025; the Petition was filed on 8 January 2025; yet for nine months thereafter no meaningful steps were taken to vacate. Instead, the ad-interim order was used as a shield to continue a non-compliant occupation.

7) This is not a case of enforcing an oral or concluded contract; nor does the Petition raise any challenge to the underlying statutory regime requiring an OC. On these facts, the plea of breach of natural justice is untenable. Even assuming some procedural lapse, no relief in Writ would be warranted where the substantive and continuing illegality is incontrovertible and poses public-safety risks.

8) A litigant who approaches the Court must do so with clean hands. The Petitioner occupied and commercially exploited premises without an OC and then used the Court’s ad-interim protection to perpetuate that illegality for months. No equitable relief is merited.

9) In the circumstances, no case is made out to continue the interim protection or to grant further time. The Petition deserves dismissal with exemplary costs, and consequential directions are warranted to fix administrative responsibility.

: ORDER :

I. The Writ Petition is dismissed with costs of Rs.50,00,000/- to be paid by the Petitioner to the PM Cares Fund within a period of two weeks from the date of uploading of this Judgment on the website of Bombay High Court.

II. The account details of the said Fund are as under :

Name of the Account	:	PM CARES
Account Number	:	60355358964
IFSC	:	MAHB0001160
Branch	:	UPSC - New Delhi

III. The ad-interim order dated 8th January 2025 stands vacated forthwith.

IV. The concerned authorities shall immediately enforce the order dated 7th January 2025, and the subsequent direction dated 7th October 2025, in accordance with law.

V. The Chairman/Chief of the Jammu & Kashmir Bank, MHADA shall, within six weeks, initiate an inquiry to:

- a) identify the officers of Jammu & Kashmir Bank responsible for commencing and operating the branch in premises lacking an OC and fire NOC;
- b) examine lapses, if any, by public officials or private entities that enabled such occupation from 23rd February

2024; and

c) take action as permissible in law, including initiation of appropriate proceedings and imposition of penalties.

VI. Registry is directed to communicate this Judgment to the Municipal Commissioner BMC, CEO MHADA and Chairman/Chief of the Jammu & Kashmir Bank by digital mode and private service.

VII. A brief compliance affidavit be filed by all concerned before this Court within eight weeks.

VIII. It is clarified that nothing in this order precludes the authorities from taking any independent statutory action, including sealing, prosecution, or recovery of charges, as may be warranted.

(KAMAL KHATA, J.)

10) At this stage, the learned Advocate for Petitioner seeks stay of the Judgment. In view of the reasons stated above, the stay is rejected.

(KAMAL KHATA, J.)