

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

WRIT PETITION NO. 1306 OF 2025

M/s. ISA Enterprises	...Petitioner
Versus	
The Chief Officer M.B.B.R. Board	
MHADA Unit & Ors.	...Respondents

Mr. Shekhar A. Ingawale i/by Mr. A. K. Kharwar, for Petitioner.

Mr. Girish Godbole, Senior Advocate a/w Mr. K. H. Mastakar i/by Ms. Komal Punjabi for Respondent Nos.3 & 4.

Ms. Aparna Kalathil i/by Mr. P. G. Lad for MHADA – Respondent No.1.

Ms. Manisha Gawde, A.G.P. for Respondent No.2 – State.

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

DATE: 10th JULY 2025

P.C.

1. Not on board. Taken on board.
2. Although this Petition is moved for extension of the ad-interim order, the learned counsel for the parties have made submissions. Considering such submissions for the reasons which we record herein below the parties would agree we can proceed to dispose of this Petition. At the outset we note the substantive prayers as made in this petition which reads thus :

“a) That this Hon’ble Court be pleased to issue Writ of Mandamus or Writ in the nature of mandamus or any other appropriate writ order or direction under article 226 of the Constitution of India directing the Respondents to take appropriate steps for complying with the order dated 16.11.2022 passed in Writ Petition No.275 of 2020 by this Hon’ble Court.

b) That this Hon'ble Court to issue a Writ of Mandamus or a Writ in the nature of Mandamus or any other appropriate Writ, direction or order under Article 226 of the Constitution of India ordering and directing Respondents to forthwith take appropriate, prompt and expeditious steps in exercise of their powers to issue the amended NOC for the project without re-verifying the tenancies of 13 tenants earlier considered to be ineligible while granting the NOC dated 22.09.2006.

c) that this Hon'ble Court be pleased to issue Writ of Mandamus or Writ in the nature of mandamus or any other appropriate writ order or direction under article 226 of the Constitution of India directing the Respondent Nos.1 & 2 to initiate appropriate inquiry against its Officer responsible for delaying the grant of amended NOC for the project without re-verifying the tenancies of 13 tenants earlier considered to be ineligible while granting the NOC dated 22.09.2006 in compliance of Order dated 16.11.2022 passed in Writ Petition No.275 of 2020 and if found guilty appropriate action for dereliction of duty against them be initiated.

c-1) That this Hon'ble Court be pleased to issue a Writ of Mandamus or a Writ in the nature of Mandamus or any other appropriate Writ, direction or order under Article 226 of the Constitution of India ordering and directing Respondent Nos.3 and 4 to increase the water supply capacity of 40 mm to 60 mm for the aforesaid 'Royal Palace' building situated at 16/18 Fitwala Road, Elphinstone, Mumbai – 400 013;

c-2) That this Hon'ble Court be pleased to issue a Writ of Certiorari or a Writ in the nature of Certiorari or any other appropriate Writ, direction or order under Article 226 of Constitution of India calling for the records and proceedings of the impugned notices at 'Exhibit – K to K-12' and 'Exhibit-M to M-6 of this Petition from Respondent Nos.3 & 4 and after examining the legality and validity thereof, be pleased to quash and set aside the same."

3. On 17th June, 2025 when the proceedings were listed before us accepting the statement by Mr. Lad, learned counsel for MHADA that the Mhada would issue a No Objection Certificate. We had passed the following order :

"1. Stand over to 23 June 2025 (H.O.B.) as we accept the statement as made by Mr. Lad, learned counsel for MHADA that the MHADA would issue a No Objection Certificate. Prima facie we are of the opinion that the stand taken by MHADA is contrary to the decision of this order and in fact

amounts to over reaching the orders passed by the Court on 16 November 2022 on a batch of writ petitions being Writ Petition No.275 of 2020 (Abdul Razzak AK Fitwalla & Ors. vs. ISA Enterprises & Ors.) alongwith connected writ petitions.

2. Insofar as the Municipal Corporation is concerned, we direct the Municipal Corporation not to take any coercive action till the adjourned date of hearing.

3. Let reply affidavit to this petition be placed on record.”

4. Thereafter on the backdrop of the aforesaid order, on 23rd June, 2025 when the proceedings were listed, we passed an order recording a statement made on behalf of the MHADA that NOC would be issued to the Petitioner on 24th June, 2025. Accordingly we adjourned the proceedings to 26th June, 2025. On the said adjourned date of hearing, we passed the following order :

“1. We are informed by Mr. Lad, Learned Counsel for the Respondent-MHADA that revised NOC has already been issued on behalf of Respondent Nos.3 and 4-Corporation.

2. The Reply Affidavit tendered by Mr. Godbole, Learned Counsel for Respondent-BMC is taken on record. A copy of the same has also been furnished to the Learned Counsel for the Petitioner.

3. It is made clear that we shall proceed to hear the parties on the next date.

4. Stand over to 3rd July 2025 (HOB).

5. Till the adjourned date, the Municipal Corporation shall not proceed to take any coercive steps.”

5. Today Ms. Aparna Kalathil, learned counsel for the MHADA states that the revised NOC has already been issued on 26th June, 2025. In this view of the matter Mr. Shekhar Ingawale, learned counsel for the Petitioner states that the principal grievance of the Petitioner has stood addressed.

6. In so far as prayer Clauses (a) (b) and (c) are concerned, the grievance of the Petitioner thus would not survive. In so far as the prayer Clause (c-2) is concerned, now as the revised NOC has been granted by the MHADA, it is informed by Mr. Shekhar Ingawale, learned counsel for the Petitioner that

immediately on 27.06.2025, the Petitioner through its architect's submitted a regularization application and/or amended plans. We do not intend to delve on the merits of the said regularization application suffice it to observe if at all the same is in accordance with law and/or permitted to be made in law. It is for the Municipal Corporation to take an appropriate decision, on such regularization application and/or amended plans or any proposal as filed by the Petitioner in regard to the construction in question as the rules, regulations and the law would mandate. We do not express any opinion on such issue. An appropriate decision on such application be taken as expeditiously as possible, and in any event within a period of six weeks from today.

7. Till an appropriate decision is taken and the same is communicated to the Petitioner, no coercive action be taken against the impugned structures. Needless to observe that if such an application is rejected, it is open to the Municipal Corporation to take such appropriate action in accordance with law.

8. At this stage Mr. Shekhar Ingawale submits that in the event an order adverse to the Petitioner is passed further protection be granted to the Petitioners. It is ordered that in such event from the date of communication of such order, such protection shall continue for a period of 15 days.

9. All contentions of the parties in that regard are expressly kept open.

10. Petition is disposed of in the aforesaid terms. No costs.

(ARIF S. DOCTOR, J.)

(G. S. KULKARNI, J.)