



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

WRIT PETITION NO. 1679 OF 2025

Asha Bhupendra Kansara & Anr.

... Petitioners

Vs.

Municipal Corporation for Greater Mumbai & Ors.

... Respondents

Mr. Nitesh V. Bhutekar for the petitioners.

Ms. Smita Tondwalkar i/b. Komal Punjabi for respondent nos. 1 to 6.

Mr. Chetan Yadav i/b. R.V. & Co. for respondent nos. 7 & 8.

Mr. Yashpal Hangalgekar, Asstt. Engineer (B&F) K/W Ward BMC present.

Mr. Niles Koli, J.E. (B&F) K/W Ward BMC present.

Mr. Sachin Talekar, A.D.F.O. (Fire Dept.) BMC present.

CORAM: G. S. KULKARNI &
ARIF S. DOCTOR, JJ.
DATED: 11 JUNE, 2025

P.C.

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

“a) Be pleased to issue writ of mandamus or writ in the nature of mandamus or any other appropriate writ thereby directing the respondent nos. 1 to 6 to take action as mandated by law, against the respondent nos. 7 & 8 in respect of the unauthorized construction which has been carried out by them;

b) Be pleased to issue appropriate writ to the respondent nos. 1 to 4 to demolish the said illegal construction on the ground and first floor of the said Building and to direct respondent nos. 7 & 8 to restore the approved parking arrangement and/or structures as per approved plan dated 26 April, 2022;

c) Be pleased to issue appropriate writ to direct the respondent nos. 1 to 4 to appoint responsible officer and/or qualified professional person who shall certify the RCC structure for any/all damages caused due to the illegal construction and tampering of the same;

d) Be pleased to direct respondent no. 1 and respondent nos. 5 & 6 to forthwith prosecute respondent nos. 7 & 8 for violation of the occupancy certificate & fire safety norms, as well as to remove the illegal access lock devices installed which is prevented the usage of fire lift by the petitioners.”

2. The grievance of the petitioners, who are tenants of the premises in

question, is against respondent nos. 7 and 8, who are landlords of the building, for undertaking illegal and/or unauthorized constructions contrary to the sanctioned plan.

3. Learned counsel for the Municipal Corporation states that infact notices are issued to both the parties for inspection of the premises, however, the parties have not permitted and/or prevented the Corporation officers from taking inspection of the premises. If this be so, we do not appreciate such conduct on the part of the parties. We, accordingly, direct that the team of concerned officers of the Corporation shall visit the premises and take inspection of the entire premises. This exercise be undertaken on 16 June, 2025 at 11.00 a.m. No further notice of such inspection is necessary to be issued by the Municipal Corporation to the parties. The petitioners as also respondent no. 7 shall cooperate with the concerned officers of the Municipal Corporation while taking inspection of the premises. Any non-cooperation shall be considered to be breach of the order passed by this Court and inviting appropriate actions be taken against those who are found to be guilty of such breach.

4. Needless to observe that the officers of the Municipal Corporation, after undertaking proper survey of the building and after considering the sanctioned plan, shall find out as to whether there is any illegal construction. If it is found that there is some illegal/unauthorized construction / addition or alteration in the structure in question, the Corporation shall resort to take appropriate action in accordance with law.

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

6. Petition stands disposed of in the aforesaid terms. No costs.

(ARIF S. DOCTOR, J.)

(G. S. KULKARNI , J.)