

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

WRIT PETITION NO. 2507 OF 2025

Naresh Otarmal Jain

... Petitioner

Vs.

The Municipal Corporation of Gr. Mumbai
a Local Statutory Body & Ors.

... Respondents

Mr. Shekhar Jagtap a/w Sairuchita Chowdhary and Yashashree Raut i/b J. Shekhar Associates for Petitioner.

Ms. Gauri Sawant, AGP for State.

Ms. Rupali Adhate i/b Ms. Komal Punjabi for BMC.

Mr. Yashpal Hungrkar, Asst. Engineer, Building & Factory Dept. K/W.

Mr. Bagade Sub-engineer B. P. Dept. K/w Ward.

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

DATE: 29 JULY 2025

P.C.

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

“a. This Hon’ble Court may be pleased to issue a writ of mandamus and/or any other appropriate writ and/or direction and/or order and thereby direct that the unauthorized structure unauthorized structure constructed by the Respondents No. 5 to 7, on the property of the Petitioner situated at CTS No. 1034/1 to 24, Mangelowadi, Juhu Tara Road, Santacruz West, Mumbai 400049. is in clear violation of the provisions of the Mumbai Municipal Corporation Act, 1888, and that its continued existence is illegal, arbitrary and contrary to law;

B. This Hon'ble Court may be pleased to issue a writ of mandamus and/or any other appropriate writ and/or direction and/or order and thereby direct the Respondent No. 1 to 3 to take immediate and appropriate action in furtherance of the notice already issued under Section 488 of the Mumbai Municipal Corporation Act, 1888, including but not limited to demolition and removal of the unauthorized structure constructed by the Respondents No. 5 to 7, on the property of the Petitioner situated at CTS No. 1034/1 to 24, Mangelowadi, Juhu Tara Road, Santacruz West, Mumbai 400049, and to restore the property to its original and lawful condition;

C. This Hon'ble Court may be pleased to issue a writ of mandamus and/or any other appropriate writ and/or direction and/or order and thereby direct the Respondent No. 1 to 3 to take time-bound action as per its own policies and the law, including demolition of the impugned unauthorized structure constructed by the Respondents No. 5 to 7, on the property of the Petitioner, and to file a compliance report before this Hon'ble Court;

D. This Hon'ble Court may be pleased to issue a writ of mandamus and/or any other appropriate writ and/or direction and/or order and thereby direct the Respondent No. 1 to 3 initiate necessary action, including penal action against the Respondents No. 5 to 7, who are responsible for the construction of the unauthorized structure, as contemplated under the relevant sections of Mumbai Corporation Act, 1888, and/or the development Control and Promotion Regulations for Greater Mumbai;"

2. It is not in dispute that the IOD has already been issued to the petitioner. Petitioner is however, aggrieved by the unauthorized occupants and/or unauthorized constructions undertaken by the respective respondent Nos.5 to 7 on its property and in that regard the petitioner is desirous to make an appropriate representation for further appropriate action to be taken by the Municipal Corporation, as already notices under Section 488 of the Mumbai Municipal Corporation Act, 1888 were issued as far back in February 2022 (Exhibit - C & D). We accordingly permit the petitioner to withdraw this petition with liberty to make an appropriate representation, if there is any further role for the Municipal Corporation to be discharged as the law would mandate.

3. Let a representation in this regard be made within one week from today and if so filed, within a period of two weeks from the date of filing of such representation before the designated authority of the Mumbai Municipal Corporation. the designated authority shall hear the petitioner as also the respondent Nos.5 to 7 and pass appropriate order in accordance with law. All contentions of the parties in that regard are expressly kept open.

4. Disposed of in the aforesaid terms. No costs.

(ARIF S. DOCTOR, J.)

(G. S. KULKARNI, J.)