

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

WRIT PETITION NO. 3007 OF 2025

Pankaj Parikh And Ors.

...Petitioners

Versus

The State of Maharashtra And Ors.

...Respondents

Mr. Rajneesh Jaiswal, Advocate for the Petitioners.

Mr. S. B. Gore, AGP for the State/Respondent No. 1.

Mr. Pankaj Parikh a/w Ms. Madhavi Nalluri, Ms. Rutuja Bodake & Ms. Rupali Adhate i/b Ms. Komal Punjabi, Advocates for Respondent Nos. 2 to 7.

Mr. Mahesh Pawar, SE BP 'R' South Ward Officer a/w Mr. Milind Dande, Assistant Divisional Fire Officer for BMC are present in the Court.

Mr. Siddhant Dhavale i/b MZM Legal LLP, Advocate for Respondent Nos. 8 to 10.

**CORAM : RAVINDRA V. GHUGE &
ASHWIN D. BHOBE, JJ.**

DATE : 13th OCTOBER, 2025.

P.C. :

1. The Petitioners are the owners of flats in 'C' Wing of the building named 'Gaurav Palace' situated on CTS No. 100, Survey No. 96, Hissa No. 3 of Malad (West), situated at Kandivali (West), Mumbai-400 067. They are unable to occupy the flats, which are purchased in the year 2015, since there is no Occupancy Certificate (OC) obtained by Respondent No. 8 Builder and Developer and the Partners, Respondent Nos. 9 & 10. An extra floor is constructed at the 16th level, which is without approved plans and prior permissions. Several flat owners have

already occupied the flats, out of desperation, without an OC. 10 years down the line, there is no firefighting equipment installed and therefore, there is no Firefighting Clearance Certificate.

2. Without an OC, this builder has disposed off the flats in the property and is himself occupying the 15th & 16th floors.

3. The Petitioners have put forth the prayer clauses (a) & (b), which read as under :-

“(a) that this Hon’ble High Court be pleased to issue a writ of mandamus or a writ in the nature of mandamus to direct Respondent Nos. 6 and 7 to enforce upon the Respondent Nos. 8 to 10 to comply with the provisions of The Maharashtra Fire Prevention and Life Safety Measures Act, 2006, in as much as it relates to obtaining Firefighting Clearance Certificate;

(b) that this Hon’ble High Court be pleased to issue a writ of mandamus or a writ in the nature of mandamus to direct Respondent Nos. 2 to 5 to enforce upon the Respondent Nos. 8 to 10 to comply with the provisions of The Mumbai Municipal Corporation Act, 1888 in as much as it relates to obtaining Occupancy Certificate.”

4. The learned Advocate representing the Corporation submits that notices have been issued to the Builder and Developer. Granting sufficient time to the Builder, the timeline to obtain the Fire Clearance Certificate, is to expire on 18th October, 2025. The Builder has applied to the Corporation seeking 20 more days.

5. We find that the Builder has actually played with the lives of the residents in the building. For 10 years, without an OC, rights have been created in the purchasers. Fortunately, for 10 years there has been no fire in the building, which completely lacks in the firefighting equipment. The Builder cannot continue to ride on luck. It is a matter of good fortune that there has been no fire in the building. However, the Petitioners were compelled to approach this Court after they ran out of patience and are unable to occupy the flats, though purchased 10 years ago, since there is no OC.

6. The affidavit in reply of Corporation is tendered across the bar. In view of the above, we approve the stand taken by the Corporation that the Firefighting Clearance Certificate should be obtained by the Builder within the deadline until 18th October, 2025. The Builder has been seeking extension of time. At some point, this has to end. So also, the builder/developer/partners, Respondent Nos. 8 to 10, have to obtain the OC within a time schedule.

7. We, therefore, direct that Respondent Nos. 8 to 10 shall ensure that the Fire Clearance Certificate is acquired by following the due procedure within the timeline until 18th October, 2025. If not acquired, thereafter, for each day's delay in obtaining the Fire Clearance Certificate, Respondent Nos. 8 to 10 shall be liable to deposit the amount

of Rs. 50,000/- with the Corporation, because there is no Co-operative Society of the flat owners due to lack of the OC, otherwise we would have granted the said amount to the Society. Needless to state, that after the Society of the flat owners is formed, the Corporation shall transfer only the above said amount to the Society, within 30 days of its formation.

8. Insofar as the OC is concerned, the Builder would be liable to pay the regularization charges and premium amount, strictly as per the rules. Let this exercise of obtaining the OC be concluded by 31st December, 2025, failing which, the Corporation can proceed to auction the entire Floor Nos. 15 & 16, which have been occupied by Respondent Nos. 8 to 10 (who are the Builders and Developers/Partners) and the premium & regularization charges shall be recovered from such auction. If the said Respondents comply with the legal requirements and obtain the OC on or before 31st December 2025, the order of auction would lose its efficacy.

9. With the above directions, **this Petition is disposed off.**

[ASHWIN D. BHOBE, J.]

[RAVINDRA V. GHUGE, J.]