



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

WRIT PETITION NO.5206 OF 2025

Rajshri Productions Pvt. Ltd. and Ors. ... Petitioners

Versus

The Municipal Corporation of Greater Mumbai
and Ors. Respondents

Mr. Vaibhav Joglekar, Senior Advocate a/w Adv. Trushti Talekar
i/b. Adv. Sheetal Angne, for the petitioners.

Mr. G. S. Godbole, Senior Advocate a/w Adv. S. V. Tondwalkar, for
the respondent-BMC.

Mr. Shrikant Khairnar, Sub-Engineer (BP), G/S Ward present.

**CORAM : M. S. KARNIK &
S. M. MODAK, JJ.**

DATE : 5th MARCH, 2026

P.C. :

1. Heard Mr. Vaibhav Joglekar, learned Senior Advocate for the petitioners and Mr. G. S. Godbole, learned Senior Advocate for the respondent-Corporation. The concerned officer is present in the Court.

2. The matter was heard for some time. In view of the submissions made at the bar by learned Senior Advocate and in deference to certain suggestions made by this Court, we propose to

pass the following order which in our opinion would meet the ends of justice.

3. Rule. By consent Rule made returnable forthwith and Petition is taken up for hearing. The Advocate appearing for all the respondents waives service of Rule.

4. The petitioners have approached this Court seeking diverse reliefs. A declaration is sought that the works mentioned in the regularization plan/proposal dated 12th/13th May 2025 (Exhibit I and L to the Petition) are "tenantable repairs" as defined under Section 342 of the Mumbai Municipal Corporation Act, 1888 ("the M.M.C. Act, 1888", for short) and do not need approval or, alternatively, the said approval is liable to be granted. The Petitioners have also challenged the rejection of the said proposal by Respondent Nos. 3 and 4 respectively by their decisions dated 15th May 2025, 21st May 2025 and 28th May 2025 (Exhibits P and P-1 to the Petition). The petitioners have also challenged the impugned notices dated 22nd April 2025 and 18th November 2025 (Exhibits H and AA to the Petition).

5. By an Order dated 3rd February 2026, this Court had recorded the statement of the Ld. Advocate for the respondent No.

1 that the authorized personnel of Corporation would visit the premises to carry out inspection on 4th February 2026 and a report identifying the area requiring tenantable repairs and the area where fresh construction is noticed, would be submitted to this Court on 5th February 2026. Accordingly, such inspection has been carried out and the Report of Inspection dt. 4th February 2026 was submitted during the course of hearing on 5th February 2026 which has been taken on record and marked "X-1" for identification.

6. It is an accepted position that a Joint Meeting of the representatives and the Architect of the petitioners and the concerned Officers of the Building Permission and Building and Factories Departments of the respondent No.1 Corporation was held with a view to check and verify the notice structures vis a vis the sanctioned Building Plans and to consider as to which of the violations can be considered for regularization under Regulation 9(4) of the Development Control and Promotions Regulations for Greater Mumbai 2034 and which items indicated in the impugned notices have been complied with by the petitioners.

7. The respective Counsels for the parties state that the petitioners have complied with the following directions contained

in Notice dated 22nd April 2025 issued by the Officers of the respondent No.1 under Section 53 (1) of the Maharashtra Regional and Town Planning Act, 1966 (“the M.R. & T.P. Act, 1966”, for short) namely:-

- (a) Violation indicated at Sr. No.3 in the Schedule of notice regarding removal of existing B.M. Wall of AHU admeasuring 4.75 x 2.24 M. has been complied with by restoring the B.M. Walls of the AHU.
- (b) Violation indicated at Sr. No.5 in the Schedule of notice regarding change of user from AHU to Pantry and Dinning area has been complied with.

In view of these compliances, the said notice dated 22nd April 2025 would stand complied with in respect of Item Nos.3 and 5 of the Schedule of the said notice and no further action is warranted.

8. In so far as the violation indicated at Sr. No.1 in the notice dated 18th November 2025 issued under Section 354A of the M.M.C. Act, 1888 regarding AHU room is concerned, it is noted that the said violation has been complied with by the petitioners and hence no further action is warranted.

9. In so far as the violation indicated at Sr. No.6 in the

Schedule of notice dated 22nd April 2025 regarding the merger of R.C.C. Boxing into office area is concerned, the petitioners have agreed to restore the same as per the approved plan dated 28th February 2011 by providing fixed glass within a period of 60 days. This statement is accepted. On such compliance, the notice in respect of the said violation would stand complied with and no further action will be required to be taken by the respondents in that regard.

10. In so far as items listed at Sr. No.1 and 2 in the Schedule of Notice dated 22nd April 2025 and the violations indicated at Sr. Nos.1 to 3 of the notice dated 18th November 2025 issued under Section 354A of the M.M.C. Act, 1888 are concerned, on a careful scrutiny of the approved plan dated 20th February 2011 (Exhibit "D" to the Petition), the Officers of respondent No.1 have verified that the sanctioned Plan did not provide for construction of B.M. Walls but provided for partitions with light weight bricks (popularly called as Siporex material). Though the petitioners have removed the said light weight partitions, such work is within the purview of Regulation 9(4) of D.C.P.R. 2034 subject to the condition that such light weight partitions/cabins are permitted

upto a height of 2.2 mtrs. subject to certification of structural stability from the Licenced Structural Engineer. The said Regulation further provides that internal light weight partitions/cabins upto floor height will be permissible if it satisfies the criteria for light and ventilation and other requirements of the said Regulations certified by the Architect/Licensed Surveyor/Town Planner and subject to Fire Safety requirements being certified by Fire Safety Consultant and subject to certification of Structural Stability from the Licensed Structural Engineer. In view of this, it is directed that the petitioners shall be at liberty to apply to the concerned Competent Officer of the Building and Factories Department of respondent No.1 for requisite approvals for erecting/retaining such light weight partitions as also for erecting the light weight partition for replacing the partition wall (as mentioned in para 9 below) and for retaining the light weight partitions (as mentioned in para 10 below) under the aforesaid Regulation 9(4) by strictly complying with all the requirements mentioned therein. It is further directed that in case the petitioners wish to erect such light weight partitions/cabins upto floor height, apart from the certifications

contemplated in Regulation 9(4), considering the incident of fire which had taken place in the premises of the petitioners in the recent past, such proposal shall also be inspected by an Assistant Fire Officer of the Fire Brigade of the respondent No.1, to be deputed by the Chief Fire Officer. Petitioners are hereby directed to submit the requisite drawings and particulars of the material proposed to be used for such light weight partitions to such Assistant Fire Officer simultaneously with the submission of the application for such permission. It is directed that the Assistant Fire Officer of the Fire Brigade Department of the respondent No.1 shall visit the premises for the aforesaid limited purpose within a period of seven days from the date of submission of such application and submit a report to the Assistant Engineer of the Buildings and Factories Department of the respondent No. 1 within four days from such interpretation.

11. Insofar as the violations indicated at Sr. No.2 of the said report dated 4th February 2026 are concerned, petitioners have stated in the additional affidavit dated 17th February 2026 (page 196-197 of the Petition) that the access place shown in the approved plan dated 28th February 2011 is destroyed due to fire

and that they propose to shift the access from originally sanctioned Western side to another place at a distance of around 8 to 10 ft. with full height (excluding the A. C. duct) light weight material such as hylux/gypsum/siporex, by submitting an appropriate application seeking such permission under Regulation 9(4) of DCPR alongwith requisite Certificates of Architect and Fire Safety Consultant. Such application shall also be part of the application indicated at para 10 above and will abide by the same directions.

12. Insofar as the violations indicated at Sr. No.3 of the said report dated 4th February 2026 are concerned, petitioners have stated in the additional affidavit dated 17th February 2026 (page 197 of the Petition) that 6 Nos. of floor height cabins were made of light weight plywood / glass / siporex material and that they will make an application in that behalf under Regulation 9(4) DCPR. Such application shall also be part of the application indicated at para 10 above and will abide by the same directions.

13. After all such certifications, compliances and satisfaction of the requirements in Regulation 9(4), the concerned Assistant Engineer of the Building and Factories Department of respondent No.1 Corporation shall proceed to consider such application in

accordance with law and dispose off such application within a period of ten days from submission of the report of Fire Officer and restoration of the violations contained in clause 4 of the notice dated 11th April 2025 and clause (1) of the additional violations indicated in the report dated 4th February 2026, in the manner indicated hereinafter.

14. In so far as the violation indicated at Sr. No.1 in the notice dated 18th November 2025 issued under Section 354A of the M.M.C. Act, 1888 regarding AHU room is concerned, it is noted that the said violation has been complied with by the petitioners.

15. The Officers of the respondent No.1 upon careful scrutiny of the O.C. Plan dated 10th September 2007 (Exhibit B, Page 82 to the Writ Petition and also at pages 207 and 208 to the Writ Petition) state that the entire second floor area (comprising of the petitioners' premises) except 2 AHU rooms and 2 Electric Rooms, was counted in FSI and that the entire area covered by the two toilet blocks shown in the plan dated 28th February 2011 (Exhibit D, Page 86 to the Writ Petition) is fully counted in the FSI in the petitioners' premises situate on the 2nd floor of the building.

16. In so far as the violation indicated at Sr. No.4 of the

notice dated 11th April 2025 is concerned, though the said violation is partly complied with by restoring the B.M. Walls of the AHU; as regards the remaining violations indicated in the said item at Sr. No.4 of the notice, it is directed that in so far as the conversion of the toilets into Pantry and Dinning is concerned, the petitioners have agreed to restore the same subject to their right to apply for appropriate sanction and permissions from the Building Permission Department of the respondent No.1. If, after such restoration, an application for the proposed modification is made by the petitioners, the concerned Competent Authority of the Building Permission Department of the respondent No.1 shall consider and decide the same in accordance with Law.

17. In so far as additional violation indicated at Sr. No.1 of the Report dated 4th February 2026 are concerned, though the said violation is partly complied with by restoring the B.M. Wall of the AHU; as regards remaining violation, it is directed that in so far as the demolition of the internal wall of the toilets is concerned, the petitioners have agreed to restore the B.M. Wall and door as per the approved plan dated 28th February 2011 subject to their right to apply for seeking the same modification/alteration by

submitting a proposal/application for development permission under Section 44 and 45 of the M.R. & T.P. Act, 1966 and in conformity with the relevant regulatory provisions contained in the Maharashtra Development Plans Rules, 1970 and the DCPR 2034 from the building permission department of the respondent No. 1.

18. In so far as violation indicated at Sr. No.4 of the notice dated 11th April 2025 are concerned, the petitioners have agreed and are hereby directed to restore the portions of the premises to their original position as per the approved plan dated 28th February 2011, subject their right to apply for seeking the same modification/alteration by submitting a proposal/application for development permission under Section 44 and 45 of the M.R. & T.P. Act, 1966 and in conformity with the relevant regulatory provisions contained in the Maharashtra Development Plan Rules, 1970 and the DCPR 2034. Such Proposal shall also be part of the Application stipulated in paragraph 14 and 15 above and shall abide by the same direction.

19. If, after such restoration, an application for the proposed modification made by the petitioners, the concerned Competent Authority of the Building Permission Department of the respondent

No.1, which considered and decided the same on its own merits and in accordance with law, within a period of 4 weeks from submission of such application.

20. It is made clear that in case any application/s or proposal/s seeking permission under Regulation 9(4) of DCPR 2034 or under Section 44 and 45 of the M.R. & T.P. Act, 1966 and in conformity with the relevant regulatory provisions contained in the Maharashtra Development Plan Rules, 1970 and the DCPR 2034 is/are rejected either in part or otherwise; the petitioners shall be entitled to adopt appropriate remedies in accordance with Law and all contentions of parties in that regard shall expressly remain open to be agitated in such proceedings.

21. Rule made partly absolute in the aforesaid terms with no order as to costs.

22. All parties to act on authenticated copy of this order downloaded from the official website of High Court.

23. The Writ Petition is disposed of.

(S. M. MODAK, J.)

(M. S. KARNIK, J.)