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

WRIT PETITION NO. 1311 OF 2026

Marol Udyog Premises Co-operative
Society Ltd.

... Petitioner

Versus

Municipal Corporation of Greater Mumbai & ors..... Respondents

Ms. Shahin K. Sayed i/b Mr. Suryakant K. Pise, for the Petitioner.
Ms. Smita V. Tondwalkar, for the Respondent-BMC.

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

DATE : 18th MARCH 2026

P.C. :

1. Heard learned counsel for the petitioner and learned counsel
for the respondent.

2. The petitioner prays for the following substantive reliefs.

“a) This Hon'ble Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ, order or direction directing the Respondents No. 1 to 6 to take immediate action under Sections 351/354A against the unauthorized construction carried out by the Respondent No. 7 and further direct Respondents No. 1 to 6 to inspect the premises, issue notice, pass a demolition order, and remove the entire unauthorized construction.

b) That this honorable court be pleased to direct Respondent No. 7 to stop unauthorized use of Society open space, stop further construction and maintain the status quo.”

3. The petitioner is a Co-operative Society registered under the Maharashtra Co-operative Societies Act, 1960. It is the allegation of the petitioner that respondent no. 7- Shakuntala Cafe (Hotel Malhar Tribes) are the members of the petitioner- Society carrying on business in the name and style of 'Shakuntala Cafe'. It is alleged that there is unauthorized construction of a kitchen therein. The respondents are in illegal occupation of the Society's open space. The respondents have encroached the area of approximately 3000 sq. ft carpet area in the open space of Society. The respondents are flouting all the rules and regulations viz. Demolition of the Society's pump room & alteration of the emergency exit. The cooking is done without complying with the requirement of law. It is alleged that the respondents are letting out the encroached area to third party and earning on exorbitant amount of Rs. 4,00,000/- per month from them.

4. The petitioners have lodged multiple complaints before the Corporation and various other authorities. Learned counsel submitted that respondents no. 1 to 6 are not taking any legal action against the respondent no .7.

5. Our attention is invited by learned counsel for the petitioner to the complaint report dated 10/01/2024 made by the Nominated Officer, Mumbai Fire Brigade. The Observations and Recommendations in the said report read thus:

“5. Observations:

Above said premises was visited by the undersigned. My observation is as follows:

M/s Shakuntala cafe (Malhar Tribes Hotel) is having ground plus upper two floored RCC commercial structure.

Party found using LPG as a fuel in the kitchen of the said eating house. 03 no's of ABC type dry chemical powder extinguisher found kept at the said premise.

On demand the Party had produce compliance certificate from CFOs department U/no. 1600005042 for the use of LPG as a fuel in the kitchen for eating house.

Also, Party produced Trade License U/no. 887988406 for eating house (found renewed upto 31/12/2024) from MOH dept. K/E ward.

Taking action on illegal / Unauthorized structure doesn't comes under purview of this department, hence required assistance of Designated Officer (B&F) K/E ward to decide the same.

8. Recommendations: in view of above

a) Designated officer K/E ward requested to visit the premises verify the unauthorized construction addition/alteration, authenticity of the structure, and if found illegal, necessary action shall be taken against the concern as per MMC Act.

b) MOH health department K/E ward requested to keep continuous vigil on the said premise as a party running business without taking permission / various licenses and if found illegal, Stringent action shall be taken against the concern as per MMC Act.

Action taken report for (a) & (b) above shall be inform directly to the complainant.”

6. Thus, we find that prima facie, at least the complaint made by the Society has to be enquired into by the officers of the respondent-Corporation. If it is found that there is unauthorized construction, after giving an opportunity to respondent no.7, appropriate action in accordance with law has to be taken against such unauthorized construction. It may be verified whether there is unauthorized construction as alleged. If it is found that there is demolition of the Society's pump room & alteration of the emergency exit and that cooking is done without the necessary safeguards, by the respondent no. 7, appropriate action be taken against the respondent no. 7 by the Corporation. Necessary action in accordance with law be taken within a period of 16 weeks from the date of the communication of this order.

7. So far as the illegal encroachment is concerned, it is open for the Society to seek remedies before appropriate forum for removal of the encroachment. However, the Corporation must take action against the construction which is unauthorized and illegal within the aforesaid period.

8. The petition is disposed of.

(S.M.MODAK, J.)

(M.S.KARNIK, J.)