

(200238)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (LODG) NO. 1816 OF 2011

BOMBAY NURSING HOME ASSOCIATION & ORS ... PETITIONER

VERSUS

MUNICIPAL CORPORATION OF BRIHANMUMBAI & ORS ... RESPONDENT

To,

The Prothonotary and Senior Master
Bombay High Court (Original Side)
Bombay

Madam,

Vide circular dated 30 November 2009, the Respondent No.3 directed all the Health Officers not to renew the Nursing Home Registration certificate for the year 2010-2011 unless change of user is affected as per Rule No. 51 (iii) of DCR 1991. On 8 October 2010, the Respondent No.3 issued another circular thereby notifying that even though the Regulations 51 (iii) DCR 1991 is amended by the State, still in case of old nursing homes situated at residential premises, in respect of whom no change of user is done so far, in those cases the Health Officer will insist for change of user certificate from the competent authority. Pursuant to the aforesaid notifications, demand notices were issued to the Petitioners demanding huge amount of penalties allegedly for using their premises without obtaining the change of user. The Petitioners impugned the aforesaid circulars and demand notices by filing Writ Petitions being W.P. 793 of 2011 and W.P. 795 OF 2011. The Hon'ble High Court vide orders dated 14 June 2011 disposed off both the Writ Petitions thereby directing Respondent No.2 to hear the representations of the Petitioners. The Respondent No.2 heard the Petitioners on their representation on 25 July 2011 and passed the impugned order on 3 August 2011. Vide the said order, the Respondent No.2 inter alia held that all the Petitioners, who are not in lawful use of the nursing homes have to apply for change of user and if their proposals are approved then fresh demand notices shall be issued to them, which is required to be paid within a period of 15 days, failing which their registration would be revoked. The Petitioners have therefore filed the present petition challenging circulars dated 30 November 2009, 8 October 2010 and 7 May 2011 and also challenging various demand notices issued to the Petitioners by the Respondent

No.1 and further challenging the order passed by the Hon'ble Municipal Commissioner on 3 August 2011. The Petitioners state that the said order is erroneous and bad in law for grounds more specifically mentioned in the petition. The operation of the order passed by the Respondent No.2 on 3 August 2011 is however in abeyance for a period of four weeks as per the order dated 14 June 2011 passed by the Hon'ble High Court in W.P. No. 793 of 2011. The said period of four weeks is expiring on 31 August 2011. Hence the urgency.

Be therefore pleased to circulate the papers and proceeding in the captioned matter before the Hon'ble Division Bench comprising of His Lordship the Hon'ble Mr. Justice P.B. Majmudar and His Lordship the Hon'ble Mr. Justice R.V. Sawant on 29 August 2011 at 11 a.m. or soon thereafter, when counsel appearing on behalf of the Petitioners shall seek urgent reliefs in terms of the Petition.

We undertake to give notice to the Respondents.

Dated this 26th day of August 2011

Yours truly,
For Hariani & Co.

SS. J. W. N.
Partner
Advocate for the Petitioners

Cc: Bombay Nursing Home Association, 2350

Kind Attn: Mr. Manoj Gandhi

BY HAND DELIVERY

APH/AN/SG/L00360

26 August 2011

To,

1. The Municipal Corporation of Brihan Mumbai
2. The Municipal Commissioner
3. The Executive Health Officer, Public Health Department
4. The Executive Engineer, Building Proposal Department

Respondent Nos. 1 to 4 through
Smt. V. K. Khatu,
Advocate and Law Officer,
Legal Department
Municipal Corporation of Greater Mumbai,
Hall No. 200, 2nd Floor, Annexe Building
Mahanagarpalika Marg,
Mumbai - 400 001

5. The Government Pleader,
High Court of Bombay (OS),
Mumbai
6. The Association of Medical Consultants
4, Ganpati Niwas, Old Police Lane,
Opposite Andheri Station (E),
Mumbai - 400 069

Dear Madam/Sir,

Re.: In the High Court of Judicature at Bombay
Ordinary Original Civil Jurisdiction
Writ Petition (Lodg.) No. 1816 of 2011
Bombay Nursing Home Association & Ors ...Petitioners
Vs.
Municipal Corporation of Brihan Mumbai & Ors ...Respondents

We are concerned for our clients, the Petitioners in the captioned matter.

Please note that our clients have filed the captioned petition for the reliefs as prayed therein. We enclose herewith a copy of the Writ Petition along with annexures thereto, as and by way of service upon you.

The captioned matter will be listed before the Hon'ble Division Bench comprising of His Lordship the Hon'ble Mr. Justice P. B. Majmudar and His Lordship the Hon'ble Mr. Justice R. M. Savant on Monday, 29 August 2011 at 11 a.m. or soon thereafter, when the counsel on behalf of Petitioners will seek urgent ad-interim relief in terms of the petition.

You may remain present, if you so desire.

Please acknowledge.

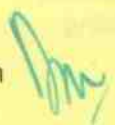
Yours truly,
For M/s Hariani & Co.



Partner
Advocate for the Petitioners

Encl: As above.

Cc: Bombay Nursing Home Association



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