

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (LODG) NO. ~~846~~ OF 2011

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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,

The Petitioners have filed the petition challenging circulars dated 30 November 2009 and 8 October 2010 and also challenging various demand notices issued to the Petitioners by the Respondent No.1. The Petitioner Nos. 4 to 51 operate maternity homes, clinics and Nursing Homes from buildings/premises/plots falling within purely residential zone since several decades even prior to DCR 1991 coming into force. The premises in which they operate have been assessed since then and the property taxes and water charges have been fixed by Respondent No.2 at commercial rates on the basis that they are 'Maternity Homes'. However, the Respondent No.3 is now demanding a certificate of change of user issued by Building Proposal Department for renewal of Certificate of registration granted under Bombay Nursing Homes Act 1949 and issued circulars dated 30 November 2011 and 8 October 2010. In absence of such certificate, the Certificate of registration issued under Bombay Nursing Homes Act will not be renewed. The Respondent No.4 is also calling upon the said Maternity and Nursing Homes to produce the permission for change of user and is demanding huge penalty from Petitioners on the ground that the said facility has been enjoyed by the Nursing Homes so far without holding any permission from building proposal department. The Maternity and Nursing homes of the Petitioners, which are in existence since several years even prior to DCR 1991 coming into effect are not liable to comply with this directive of Respondent No.2. However the licenses of almost 800 nursing homes in Mumbai have not been renewed and they are also issued notices by Respondent No.2 for payment of huge amount as penalty and charges. The said notifications as well as the demand notices are illegal in as much as they

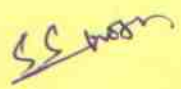


have been issued by wrongly interpreting the orders of the Hon'ble Supreme Court, which has no where dealt with the issue of change of user. The Respondent No.1 has given time till 30 April 2011 to comply with the demand notices failing which, it has threatened to adverse actions against the Petitioners. Hence, the urgency.

Be therefore pleased to circulate the papers and proceeding in the captioned matter before the Hon'ble Division Bench comprising of Her Ladyship Hon'ble Mrs. Justice Ranjana Desai and His Lordship Hon'ble Mr. Justice R.G. Ketkar on \_\_\_ April 2011, when counsel appearing on behalf of the Petitioners shall seek urgent reliefs in terms of the Petition.

Dated this 28<sup>th</sup> day of April 2011

Yours truly,  
For Hariani & Co.



W Partner  
Advocate for the Petitioners

Cc: Bombay Nursing Home Association,  
Kind Attn: Mr. Manoj Gandhi