

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****WRIT PETITION NO.1680 OF 2014**

1. Bhartiya Vidya Bhavan (Bavla Compound) Co-op. Housing Society (proposed) having its office at 4/23, Bavla Compound, Bharatiya Vidya Bhavan, Dattaram Lad Marg, Chichpokli, Mumbai 400 012.)
2. Mr. Kalpesh Virchand Shah)
3. Mr. Prasanna Kashiram Rane)
4. Mr. Gopichand Amre)
- All adult Indian citizens, being Promoters and members Bharatiya Vidya Bhavan (Bavla Compound) Co-op Hsg. Sco. (Prop.), having their address at 4/23, Bavla Compound, Bharatiya Vidya Bhavan, Dattaram Lad Marg, Chinchpokli, Mumbai 400 012)
5. Darshan Developers through its partner Mr. Rajendra C. Jain, having its registered office at 109, Sakeshwar Darshan, Seth Motishah Lane, Mazgaon, Mumbai 400 010) Petitioners.

V/s

1. State of Maharashtra)

through Housing Department and)
Urban Development Department)
having Office at Mantralaya,)
Mumbai 400 032.)

2. The Maharashtra Housing and)
Area Development Authority, a body)
corporate established under)
Section 3 of the MHADA Act, 1976)
having its office at Griha Nirman)
Bhavan, Kala Nagar, Bandra (East),)
Mumbai 400 051.)

3. Mumbai Building Repairs and)
Reconstruction Board)
constituted under Section 18 of the)
MHAD Act, 1976, having its office)
at Griha Nirman Bhavan,)
Bandra (East), Mumbai 400 051)

4. High Power Committee)
constituted by the Government of)
Maharashtra, having office at)
Mumbai Municipal Corporation)
Building, Opp. C.S.T.,)
Mumbai 400 001.)

5. The Municipal Corporation of)
Greater Mumbai, a statutory)
Corporation constituted under)
the Mumbai Municipal Corporation)
Act, 1888, having its address)
at Mahapalika Marg,)
Mumbai 400001)

) Respondents.

Mr. V.V. Tulzapurkar, Senior Counsel with Mr. Rohan Cama
alongwith Mr. Sanjay Kadam i/b Kadam & Co. for the

Petitioners.

Mr. P.G. Lad, AGP for Respondent No.1.

Ms. P.D. Anklesaria, Senior Counsel alongwith Mr. V.P. Sawant for Respondent Nos. 2 and 3.

Mr. G.J. Reddy for Respondent No.4.

ALONGWITH

CHAMBER SUMMONS NO.269 OF 20014

IN

WRIT PETITION NO.1680 OF 2014

Ravindra B. Hadapi & Ors.Applicants.

In the matter between

Bharatiya Vidya Bhavan (Bavla
Compound) CHS (Proposed) & Ors. Petitioners.

Versus

State of Maharashtra & Ors. Respondents.

And

Ravindra B. Hadapi & Ors. Applicants.

Mr. Harish R. Pawar for the Applicants.

**CORAM: V. M. KANADE &
REVATI MOHITE DERE, JJ.**

Order reserved on : 13/01/2015

Order pronounced on : 25/03/2015

(At 2.35 P.M. in Chamber)

JUDGMENT: (Per V.M. Kanade, J.)

1. Rule. Rule is made returnable forthwith. Respondents waive service. By consent of parties, matter is taken up for final hearing.

2. By this Petition which is filed under Article 226 of the Constitution of India, Petitioners are seeking appropriate writ, order and direction for quashing three letters which have been issued by Respondents viz (i) first impugned letter bearing No.Misc. 2008/Case No.86/Reconst.-41/R&R-1 dated 6th May, 2014, (ii) second impugned letter bearing No. CMS/TPB-4313/507/Case No.65/2014/UD-11 dated 6th May, 2014 and (iii) third impugned letter bearing No. ERR/DCR 33(9)/371/MBRRB-10 dated 27th January, 2010 and also for quashing condition No.13 in Board's notice dated 27th June, 2014.

3. Brief facts which are germane for the purpose of deciding this Petition are as under:-

4. This Petition has been filed by the Petitioners under representative capacity on behalf of 187 occupants who were occupying the structures on the plot of land commonly known as "Bavla Compound" which is owned by MHADA and which had buildings/structures on the said plot of land prior

to 30th September, 1969. There were about 280 occupants on the said property. Since some of the buildings were in a dilapidated condition, they were demolished and the occupants have been staying in transit accommodation owned by MHADA at various places viz. Pratiksha Nagar, Kannamwar Nagar and Vikroli. The structures in which they were residing were demolished by MHADA about 9/10 years ago and they are residing in the transit accommodation since then. The condition of the transit accommodation is equally bad. The remaining structures which are standing on the property are also in dilapidated and ruinous condition.

5. MHADA purchased the said property in 1977 under section 37 of the old MBRRB Act, 1969 with an intention to redevelop the same from its own funds. However, even after the lapse of more than 30 years till 2008, MHADA could only partly redevelop the said property for housing 93 out of 280 occupants. Out of these remaining 187 occupants, 148 occupants and their family members are residing on the site in their dilapidated and ruinous structures. The remaining occupants and their family members are languishing in transit camps accommodation.

6. Sometime in March, 2009 Government of Maharashtra introduced a scheme for reconstruction/redevelopment of cessed buildings constructed before 30th September, 1969

and which were acquired by MHADA under the Maharashtra Housing and Area Development Act, 1976 (For short "MHAD Act, 1976). The said scheme was popularly known as "DCR 33(9)". Under the said scheme, Government decided to provide incentive FSI and other relaxations as specified in Appendix III-A of DCR 33(9). Since the occupants were languishing in transit camp accommodation or residing in dilapidated structures standing at the site, they decided to avail the benefit of the scheme under DCR 33(9). They formed a society and out of total number of 187 occupants, more than 70% supported the scheme and granted their consent. Petitioner-Society then appointed Petitioner No.5 as a Developer for redevelopment of the said property under the said scheme.

7. The State of Maharashtra under its Urban Development Department constituted a High Power Committee ("HPC") as per clause (18) of Appendix III-A of DCR 33(9). The HPC grants approval to the proposals made under the said scheme.

Petitioners accordingly submitted proposal for seeking NOC for redevelopment of the property under DCR 33(9). After procedural formalities were complied with, on 7th August, 2009 certification of occupancies was issued under Annexure-II.

8. NOC was thereafter granted in favour of the Petitioners by the Board vide its letter dated 27th January, 2010 to approach the HPC for obtaining LOI for implementing the said scheme. The said NOC was granted with the prior approval of the MHADA. While granting NOC dated 27th January, 2010, condition No.13 was imposed under which it was necessary to obtain permission from the Government, particularly Housing Department before the Letter of Intent/NOC is issued. The entire controversy which is raised in this Petition revolves around the said condition and subsequent impugned letters which have been issued by the Respondents and also cancellation of LOI by the Respondents by their letter dated 27th June, 2014.

9. It is the case of the Petitioners that clause 1.1(ii) of Appendix III-A does not state that prior permission of Housing Department is necessary. On the other hand, it is the contention of the MHADA and Government that prior permission of the Housing Department is necessary and the Petitioners not having obtained the same, MHADA and State were perfectly justified in cancelling the proposed redevelopment scheme.

10. Since, at the relevant time, the said controversy had not been recked up by MHADA or by Urban Development Department, Petitioners filed their proposal with the HPC

which in its meeting dated 17th September, 2010 considered the representation of the Petitioners and approved the Petitioners' proposal and decided to recommend the same to UD Department for its approval under clause 18 of Appendix III-A and a provisional letter of approval was also granted in favour of the Petitioners so that they could approach various authorities for obtaining NOCs.

11. Petitioners, based on the provisional letter of approval granted by HPC, approached various authorities and obtained their NOCs and permissions For example (1) NOC from Traffic Department dated 1st November, 2010, (2) NOC from Sewerage Project dated 11th November, 2010, (3) NOC from Sewerage Department dated 22nd November, 2010, (4) NOC from Hydraulic Engineer dated 24th November, 2010 and (5) NOC from BEST Undertaking dated 2nd December, 2010. Petitioners were informed, when the inquiries were made by them about the status of their proposal, that the proposal had been forwarded to UD Department and was still pending in the said Department. Petitioners were thereafter informed that the Housing Department had directed the Board to cancel the NOC dated 27th January, 2010 by their letter dated 23rd November, 2010 on the ground that prior permission of the Housing Department was necessary for redevelopment of the property. Thereafter, Urban Development Department and the Board did not decide the

proposal of the Petitioners for almost four years despite several representations being made by them. Petitioners, thereafter, filed Writ Petition No.393 of 2014 and this Court directed the Housing Department to decide the said proposal by end of March, 2014. Despite directions given by this Court, the said proposal was not decided and, therefore, contempt petition was filed. In the said contempt petition, Principal Secretary, Urban Development Department disclosed that UD Department has taken a decision on the said proposal and communicated the same to the Municipal Commissioner by his letter dated 6th May 2014. In this letter it was stated that the Board had given conditional NOC for redevelopment of the said property without consulting MHADA and this was not in conformity with Section 79 of the MHAD Act, 1976 and, therefore, direction was given by the Housing Department to the Board to cancel the said NOC and take further action for redevelopment in consonance with MHADA's decision in its meeting dated 24th October, 2013. Thereafter, the Respondents by their letter dated 27th June, 2014 cancelled the NOC. Being aggrieved by the aforesaid impugned letters, Petitioners have approached this Court.

12. Mr. V.V. Tulzapurkar learned Senior Counsel appearing on behalf of the Petitioners invited our attention to the impugned orders/letters passed by the Respondents. He submitted that the ground given by the UD Department that

NOC dated 27th January, 2010 given in favour of Petitioner No.5 was not in consonance with section 79 of the MHAD Act, 1976 is *per se* wrong. He submitted that neither section 79 nor the parent provision i.e. DCR, empowers MHADA to levy condition of prior permission. Secondly, it was submitted that, in fact, NOC was issued on 27th January, 2010 and was approved by the MHADA's CEO & VP. It was submitted that this permission could not have been retrospectively cancelled by the MHADA in its 251st meeting held on 24th October, 2013. Thirdly, it was submitted that change in the policy which was brought about in the meeting dated 24th October, 2013 could be applied prospectively and not retrospectively. It was submitted that the Petitioners had acted on the basis of the NOC and had taken steps for the purpose of complying with the conditions imposed in the said NOC and had spent more than Rs 1.25 crores during the last three years on the basis of the NOC. Fourthly, it was submitted that the second impugned letter dated 6th May, 2014 was written by the Urban Development Department to the Municipal Commissioner directing him to cancel the NOC which was granted in favour of Petitioner No.5 and it was contended in the said letter that condition No.13 of the NOC had not been complied with by the Petitioners. It was submitted that the reason given by the Housing Department was *per se* illegal since, according to the Petitioners, neither section 79 of MHAD Act 1976 nor the original provision i.e.

DCR empower the Respondents to levy any such pre-condition. Fifthly, it was contended that the property falls under sub-clause (ii) of clause 1.1 of Appendix III-A of the Development Control Regulations for Greater Mumbai, 1991 and this sub-clause does not require any prior approval/permission of the Government or any Department of the Government. It was submitted that whenever it was intended that prior permission was required it was specifically provided such as sub-clauses (iii) & (v). It was submitted that the rights which were vested in the Petitioners could not be taken away and the reasons given in the second impugned letter are, therefore, untenable. Sixthly, it was contended that condition No.13 of the NOC dated 27th January, 2010 would not have been inserted by MHADA since the subject property falls under clause 1.1(ii) of Appendix III-A of the DCR, 1991 and, therefore, the said condition was liable to be quashed. It was also contended that the impugned letter dated 27th June, 2014 canceling the NOC during the pendency of the Petition was malafide. It was contended that the eligible occupants would get 405 sq.ft permanent alternate accommodation from Petitioner No.5, whereas if MHADA purports to develop the property, the occupants would get only 225 sq.ft each. It was submitted that if MHADA constructs these properties, they would have to spend Rs 8 crores. It was further submitted that the MHADA had contended during the course of

arguments that the subject property was below 4000 sq.mtrs and, therefore, Petitioners were not entitled to avail the rights in respect of the said property. It was submitted that reliance was placed on the explanation to clause 1.1 of Appendix -III-A of DCR. During the course of arguments it was submitted that even if the explanation has to be interpreted in its proper perspective then the area left available for redevelopment would be 3732 sq.mtrs and if as per the explanation, 25% of total plot area (i.e. 1525.50 sq. mtrs) is added to it, the total area that becomes available for redevelopment is $3732 + 1525.50 = 5257$ sq.mtrs which is in excess of 4000 sq. mtrs. It was submitted that in the report given by MHADA, they have admitted that the subject property is more than 4000 sq. mtrs and according to MHADA's own report the area available for redevelopment is 5751.75 sq.mtrs. Lastly, it was submitted that the Apex Court in *Sunil Pannalal Banthia and Others vs. City & Industrial Development Corporation of Maharashtra Ltd and Another*¹ has held that after the appellant has acted and altered its position, CIDCO being the statutory authority could not resile from its assurances on the ground that the allotment had not been made in accordance with regulations. It was submitted that the Petitioners had acted on the basis of the NOC which was granted in their favour and, therefore, the same could not have been cancelled.

1 (2007) 10 SCC 674

13. Ms. P.D. Anklesaria, the learned Senior Counsel appearing on behalf of MHADA submitted that the MHADA had given limited NOC to Petitioner No.5 for the purpose of enabling him to approach the HPC for obtaining LOI. It was submitted that in the said NOC dated 27th January, 2010 it was stated that the MHADA had no objection to the developer approaching HPC for implementing DCR 33(9). Secondly, it was submitted that amongst the several conditions that the Developer had to comply, if the cluster development was to be allowed, was that the land cost @ 25% had to be paid to MHADA prior to issuance of final NOC. It was contended that it was made clear that proposal was required to be processed in accordance with DCR 33(9) and an agreement had to be executed with MHADA at the time of final NOC and till such time Developer was not entitled to get Commencement Certificate from BMC. It was further submitted that the terms and conditions of the said agreement were to be finalized by the Government and the Bombay Board and would be binding on the Developer. It was then submitted that the subject property was purchased by MHADA after getting sanction of the Government under section 37 of the 1969 Act for reconstruction and rehabilitation of the occupiers and it was necessary to obtain appropriate permission of the Government before issuance of LOI/NOC. It was submitted that the contention of the Developer that he had obtained 70% consent of the

occupiers was premature since the MHADA had not asked him to obtain such consent at the stage of LOI and that the MHADA had not verified the correctness of the consent. It was then submitted that for cluster development referred to in DCR 33(9), there had to be minimum area of 4000 sq. mtrs. It was submitted that in the present case, area of redevelopment was only 3732 sq. mtrs and, therefore, it did not fit within the parameters of DCR 33(9).

14. Ms. P.D. Anklesaria, the learned Senior Counsel appearing on behalf of the MHADA laid much emphasis on the explanation to section 33(9). She submitted that the said explanation made it clear that for the purpose of development thereunder, area previously developed or in the process of development cannot be excluded altogether, provided the developed/under developed area does not exceed 25% of the total plot area. It was, therefore, submitted that under the explanation to DCR 33(9), area which was already developed viz 2370 sq. mtrs of D-1 constructed by MHADA was liable to be included in the cluster provided it was not in excess of 25% of the plot to be developed i.e. 3732 sq. mtrs. Alternatively, it was submitted that even if the whole area of the plot was counted (6120.86 sq. mtrs.), the area of already developed portion of the plot (2370 sq. mtrs.) was far in excess of 25%. It was submitted that, therefore, in view of the said explanation, the proposal

submitted by the Petitioners under DCR 33(9) was not tenable.

15. The learned Senior Counsel for MHADA then submitted that no vested rights were created in favour of the Builder/Developer i.e. Petitioner No.5 nor in favour of the Petitioner-Society. She submitted that provisional NOC was granted and before final NOC could be granted, the NOC was cancelled. Secondly, it was submitted that the HPC had not given final sanction to the proposal of Petitioner No.5 under DCR 33(9). It was submitted that therefore no damage or injury could be caused to the interest of the Society or Developer. It was submitted that Petitioner No.5 - Developer had expressly agreed to condition No.13 of the limited NOC and he had acted upon it. It was submitted that it was not now open for him to challenge it. Reliance was placed on the judgment of the Apex Court AIR 2013 SC 161. It was further submitted that the Government was entitled to give directions to MHADA in respect of the matters falling under Section 164 of the MHAD Act, 1976. It was submitted that the directions were given by the Government to MHADA for the following reasons viz **(i)** the subject property was purchased under Section 37 of the old Act, 1969, **(ii)** MHADA had taken a decision in October, 2013 (251st meeting of authority) to develop the properties belonging to MHADA by acquisition or purchase or otherwise and the said decision

was taken in public interest with the support of the Government of Maharashtra, **(iii)** the public interest had to take precedence over private interest and the MHADA was therefore correct in canceling the limited NOC granted to Petitioner No.5, **(iv)** retrospective or prospective application of decision of MHADA was not relevant since all plots belonging to MHADA were required to be developed in public interest and all the remaining plots of MHADA which were not developed were available for development in view of the Government Policy dated 24th October, 2013 and therefore the question of retrospective application did not arise, **(v)** decision of MHADA dated 24th October, 2013 was taken in public interest and that the MHADA gets enhanced FSI/share in the surplus tenements to be made available for the weaker sections of the society. MHADA estimates that 426 surplus tenements would be available for housing weaker sections of the society and 187 remaining occupants of the plots would also be rehabilitated and **(vi)** decision dated 27th June, 2014 was also taken in public interest.

16. The short question which falls for consideration is : whether the Respondents - MHADA could impose a condition No.13 in the letter of allotment dated 27th January, 2010 and thereafter revoke the NOC by the impugned order dated 27th June, 2014?

17. It is necessary to examine DCR Appendix III-A which was framed under Section 33(9) for cluster development. It is an admitted position that the land belonged to MHADA and they had constructed various structures prior to 30th September, 1969. Number of occupants had to be kept in transit camp at Pratiksha Nagar, Sion, Kannamwar Nagar and Vikroli and at other transit camps. The said occupants are languishing in these tenements for last 9 years. After the scheme of cluster development was approved by the Government under section 33(9), the occupants formed a Society and appointed Petitioner No.5 as their Developer. Under the scheme of cluster development, MHADA was supposed to get 25% of the land cost from the developer and the tenements would be constructed free of charge for the occupants. Clause 1.1(i) and (ii) in the said Appendix III-A refers to as under:-

“1.1. “Urban Renewal Scheme” means any scheme in the Island City of the Mumbai having a minimum 4000 sq. mtrs. Bounded by existing distinguishing physical boundaries such as roads, nallas, railway lines etc., and which consists of a mix of structures of different characteristics such as -

(i) Cessed buildings of 'A', 'B' & 'C' categories in Island City, which attracts the provisions of MHAD Act, 1976.”

(ii) Buildings erected before 30/9/1969
and acquired by MHADA under
MHADA Act, 1976.”

On the other hand, Clauses (iii) and (v) expressly and implicitly state that permission of the State Government through Urban Development Department is necessary. Such a condition is not imposed in Clause 1.1(ii). It was, therefore, strenuously urged by the learned Senior Counsel appearing on behalf of the Petitioners that condition No.13 imposed in the NOC by MHADA is illegal and contrary to DCR 33(9). Secondly, it was submitted that therefore the first impugned letter dated 6th May, 2014 and second impugned letter also dated 6th May, 2014 and the final and third impugned letter dated 27th June, 2014 were liable to be set aside. Thirdly, it was submitted that the Petitioners having acted on the NOC which was granted by MHADA and had taken steps for the purpose of obtaining clearance from various authorities and having spent huge amount of money, it was not open for the MHADA or Government to rely on subsequent decision of MHADA which was taken on 24th October, 2013. It was submitted that the Respondents were estopped from taking a decision of developing the said plot on their own.

18. In our view, there is much substance in the submissions made by the learned Senior Counsel appearing on behalf of the Petitioners. Condition No.1.1.(ii) explicitly makes it clear

that permission of the Government is not required to be taken. Whenever MHADA felt that permission is necessary, it has said so in the rules itself. After having obtained NOC, Petitioner No.5 - Developer of the Petitioner-Society had taken various steps for obtaining NOCs from various Departments and had also spent an amount of Rs 1.25 crores and almost after three years, abruptly, the 1st and 2nd impugned order/letter dated 6th May, 2014 and third impugned order/letter dated 27th June, 2014 were issued during the pendency of the Petition. In our view, this action obviously is malafide action and is completely arbitrary, capricious and therefore liable to be set aside since it is not supported by any legal provision. When condition No.1.1(ii) does not require any permission to be taken from the Government, it was not open for the MHADA and the Government to impose the said condition on the Petitioners. Secondly, construction of the Petitioners falls in the first category viz the structures which were situated on MHADA land and which were constructed prior to 30th September, 1969. 70% of the occupants of the Society were in favour of Petitioner No.5 - Developer. Thirdly, Respondents - Urban Development Department had not taken any decision and the Petitioners had to approach this Court for seeking a direction, directing the Urban Development Department to take a decision. When a direction to that effect was given, even the said direction of this Court was not complied with

and, therefore, Contempt Petition had to be filed. Only after the Contempt Petition was filed, an affidavit-in-reply was filed, stating therein that decision had already been taken on 6th May, 2014 and 27th June, 2014. It is contended in the impugned order/letter that the NOC which was granted to the Petitioners-Society and Petitioner No.5 is contrary to Section 79 of the MHAD Act, 1976. The said reasoning given by Urban Development Department is without any substance. DCR 33(9) gives sanction to cluster development and the Petitioners' case clearly falls within the said parameters given in the said DCR 33(9). Section 79 of the Maharashtra Housing and Area Development Act, 1976 reads as under.

“79 Power of Board to undertake building repairs, building reconstruction and occupiers, housing and rehabilitation schemes - (1) The Authority may, on such terms and conditions as it may think fit to impose, entrust to the Board the framing and execution of schemes for building repairs or for reconstruction of buildings or for housing and rehabilitation of dishoused occupiers, whether provided by this Act or not and the Board shall thereupon undertake the framing and execution of such schemes as if it had been provided for by this Act.

(2) The Board may, on such terms and conditions as may be agreed upon, and with the previous approval of the Authority -

(a) hand over the execution under its own supervision of any, building repairs

scheme, building reconstruction scheme, or dishoused occupiers housing scheme to the Municipal Corporation or to a co-operative society or to any other agency recognized for the purpose by the Board, as it may deem necessary, and

(b) transfer by sale, exchange or otherwise in any manner whatsoever any new building constructed on any land acquired under this Chapter to any co-operative society, if it is formed by all the occupiers, or to apartment owners for the purposes of the Maharashtra Apartment Ownership Act, 1970 (Mah. XV of 1971), (the apartment owners being all such occupiers)"

It cannot be said under any stretch of imagination that NOC which is granted under DCR 33(9) is not in consonance with Section 79(a). This is obviously an afterthought. Petitioners had acted to their detriment on the basis of the NOC which was granted by MHADA which was expressly approved by MHADA'S Managing Director and Vice President. After having obtained all the NOCs by the Petitioners, the insistence of the Government on condition No.13 which was not necessary as per Appendix III-A of DCR 33(9) was uncalled for, unfair, capricious and malafide. Secondly, Petitioner No.5 had agreed to give to the occupants 405 sq.ft. Permanent alternate accommodation whereas if MHADA develops the property, occupants would get only 225 sq.ft each. Thirdly, there is no guarantee that MHADA

Authorities would construct tenements in time since they had taken almost 10 years from the date on which occupants were shifted to transit camp to even frame a policy. Fourthly, no steps were taken by MHADA after the policy was framed in 2013. There was therefore no reason not to grant either permission by the Urban Development Department or to insist on obtaining NOC from the UD Department of Government of Maharashtra.

19. Ms. P.D. Anklesaria, the learned Senior Counsel appearing on behalf of MHADA had urged that in order to make the scheme viable, area was to be more than 4000 sq. mtrs. Reliance was placed on the explanation to Clause 1.1. of Appendix III-A. In our view, the said submission is also without any substance. The explanation reads as under:-

“Explanation: If some areas are previously developed / are in the process, of development, under the different provisions of the DCR, such areas can be included in cluster for the purpose of calculation of area of cluster. However, such area long with slum area and area under building constructed after 30/9/1969, as per Regulation 1.1.(vi) above, shall not exceed 25% of total plot area. FSI admissible for

such areas shall be admissible as per the relevant provisions of DCR under which the areas are developed/under development. However, it shall be necessary to obtain consent of owner / owners of such areas to be become part of the cluster.”

The said interpretation which is sought to be made by MHADA is, in our view, incorrect. Secondly, even according to the Report which was given by the MHADA Authorities, total buildable area was more than 6000 sq. mtrs even as per the letter of MHADA dated 31/5/2011 annexed to the Petition. There is therefore no substance in the said submission.

20. Petition is allowed in terms of prayer clause (a)(i) to (iv). Rule is made absolute accordingly. Petition is disposed of.

21. Since the Petition is disposed of, Chamber Summons No.269 of 2014 taken out therein does not survive and the same is also disposed of.

22. At this stage, the learned Senior Counsel appearing on behalf of MHADA seeks stay of this judgment for a period of four weeks. We decline to grant stay. However, we grant four weeks' time to MHADA for the purpose of compliance of this Judgment.

(REVATI MOHITE DERE, J.)

(V.M. KANADE, J.)