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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
CIVIL APPLICATION NO.5 OF 2016 IN  
WRIT PETITION NO.10823 OF 2015**

Rakesh Ramesh Khamkar and Ors. ... Applicants

In the matter between

Rakesh Ramesh Khamkar and Ors. ... Petitioners

Vs.

The State of Maharashtra and Ors. ... Respondents

**WITH  
CIVIL APPLICATION NO.6 OF 2016 IN  
WRIT PETITION NO.10824 OF 2015**

Saveetridevi Yadav and Ors. ... Applicants

In the matter between

Saveetridevi Yadav and Ors. ... Petitioners

Vs.

The State of Maharashtra and Anr. ... Respondents

**WITH  
CIVIL APPLICATION NO.7 OF 2016 IN  
WRIT PETITION NO.10825 OF 2015**

Akshata Anant Patyan and Ors. ... Applicants

In the matter between

Akshata Anant Patyan and Ors. ... Petitioners

Vs.

The State of Maharashtra and Anr. ... Respondents

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CA/5/2016 IN WP/10823/2015 WITH CA/6/2016 IN WP/10824/2015  
AND CA/7/2016 IN WP/10825/2015.

Mr. Saurabh Butala i/by Mr. Harshad Bhadbhade for the Applicants.

Mrs. M.P. Thakur, AGP for the Respondent No.1 in all matters.

Mr. Gopal Krishna Shivram Hegde for the Respondent No.2 in CA No.5 of 2016, CA No.6 of 2016 and CA No.7 of 2016.

Mr. M.S. Deshpande, Acting Court Receiver, High Court, Bombay.

**CORAM : A.S. OKA &  
C.V. BHADANG, JJ.**

**DATE : 2<sup>nd</sup> MARCH, 2016**

**PC.**

1            Heard the learned counsel appearing for the Applicants and the learned counsel appearing for the City and Industrial Development Corporation of Maharashtra Limited (CIDCO). The Applicants are the Petitioners in the disposed of Writ Petitions. The Applicants have given undertaking to vacate the premises in their respective possession and to hand over the possession thereof to the CIDCO or to the Court Receiver on or before 31<sup>st</sup> December, 2015. The said undertakings have been accepted in the main Writ Petition. Though the main Writ Petition was rejected, in view of the undertakings, the demolition of the buildings occupied by the Applicants was postponed. The Court Receiver, High Court, Bombay has been appointed as the Receiver of the premises in possession of the Applicants by their consent and that the Court

Receiver has taken symbolic possession. By these applications, the Applicants have sought extension of time to vacate the premises of six months.

2           The learned counsel appearing for the Applicants submits that the State Government is likely to come out with a policy of regularisation of illegal buildings. The order dated 16<sup>th</sup> February, 2016 passed by this Court in the PIL No.80 of 2013 and PIL No.138 of 2012 records that the policy of the State Government is not ready. This Court granted time of two weeks to the State Government to come out with the policy and, therefore, directed postponement of demolition by two weeks from that day. Even as of today, the State Government has not come out with any policy. The Applicants are not in a position to give fresh undertakings that within the extended time, irrespective of the policy, if any, of the State Government, they will vacate their respective premises in respect of which the Court Receiver has already taken symbolic possession. We were willing to grant extension of time for a reasonable period till the end of May, 2016 subject to the Applicants giving undertakings to vacate their respective premises with further undertaking not to claim advantage of policy, if any which is notified in future. However, the Applicants are not willing to give such undertaking.

3           At this stage, we may note that in Writ Petition No.10824 of 2015, the Petitioners are relying upon a prototype agreement executed in their favour. The date of the said agreement is 18<sup>th</sup> June, 2013. In the recitals of the agreement, it is specifically stated that seller had fully made the purchaser aware that the entire building is unauthorised and, therefore, the seller will not be responsible if any action of demolition is taken. Considering the admitted fact that all the Applicants were aware that the premises acquired by them were in the building which was completely unauthorised and considering the fact that time granted earlier on the basis of the solemn undertakings given by the Applicants has already expired, no case is made out for grant of extension of time. Applications are rejected.

3           We direct the office of the Court Receiver to take forcible possession of the premises in possession of the Applicants on 1<sup>st</sup> April, 2016 at 11.00 am. A fresh notice to the present Applicants will not be necessary. The officers of the CIDCO shall remain present on the site on that date. The office of the Court Receiver shall immediately hand over possession of the premises to the officers of the CIDCO after taking over the same from the occupants.

4           On an application being made by the office of the Court Receiver, the concerned local police station shall provide necessary police assistance and protection to the members of the staff of the office of the Court Receiver and the members of the staff of the CIDCO.

**(C.V. BHADANG, J )**

**(A.S. OKA, J )**