

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 1071 OF 2014**

Mr. Joginder Singh Salariya	}	
and Ors.	}	Petitioners
versus		
The State of Maharashtra	}	
and Ors.	}	Respondents

Mr. Makrand M. Kale for the Petitioners.

Mr. M. A. Sayed - AGP for respondent
no.1.

Mr. Bhavin R. Bhatia with Mr. Prayag
Joshi for respondent no. 4.

**CORAM :- S. C. DHARMADHIKARI &
DR. SHALINI PHANSALKAR-JOSHI, JJ.
DATED :- APRIL 29, 2016**

P.C. :-

By this petition under Article 226 of the Constitution of India, the petitioners are seeking intervention of this court to call for the proposals submitted by the respondent developer with respondent no. 2 corporation and after ascertaining their legality and validity, this court should quash and set aside the plan sanctioned by the municipal corporation.

2) From the allegations in the writ petition, it is apparent that there is a co-operative housing society respondent no. 3 before us. It engaged a developer and executed the necessary

development agreements, authorising him to undertake development of the property in question under D. C. Regulation 33(7).

3) The property is situated at Chember, Mumbai. It is common ground that respondent no. 4 has demolished all the four buildings, but the grievance is that the redevelopment work has not started up to 2013. It is in the above circumstances and strangely, in writ jurisdiction, the petitioners, who are members of respondent no. 3 society, seek to quash the decision of that society. It is in this background that we called upon the parties on the last occasion to address us only on the limited issue as to whether the rent/compensation in lieu of transit accommodation is paid to the petitioners by respondent no. 4 developer or the amounts are deposited with the statutory authorities or not. We have an affidavit of respondent no. 4 in reply, which enumerates how the redevelopment work was to be carried out by it and to accommodate the members of respondent no. 3 society. The petitioners have, according to this affidavit, without any protest or demur accepted the amounts in lieu of temporary alternate accommodation. In para 4 of this affidavit, the details of the payments have been set out. It is denied that no steps have been taken with regard to the development of the property.

4) Today, when the matter was placed for passing final orders, Mr. Kale appearing for the petitioners submits that after September, 2013, no payment has been made. This statement is denied by the counsel appearing for respondent no. 4. He states, on instructions, that the petitioners and others have been offered payment and some of the members have come forward and collected their amounts.

5) We need not go into this controversy, since it is stated by the learned counsel appearing for respondent no. 4, on instructions, that all the petitioners will be paid the amounts of compensation in lieu of transit accommodation, if not already paid, within a period of six weeks from today.

6) We direct that the amounts be paid by pay orders. The pay orders shall be drawn in the name of the petitioners. We clarify that it is not necessary to go into rival contentions with regard to the actions of the society and if the petitioners are aggrieved thereby, they have remedies under the Maharashtra Co-operative Societies Act, 1960 in that behalf. In these circumstances, the writ petition need not be kept pending and is disposed of.

7) After we inquired as to why the construction activity has still not taken a concrete shape, much less towards completion, it is pointed out that four floors have been constructed. The building proposed is 16 storeyed. We are informed that some issues regarding FSI were raised, but they are now resolved. The developer has sought revised sanctions and full commencement certificate. It is assured that as soon as this is obtained, respondent no. 4 developer will complete the construction within a period of three years from the date of obtaining such certificate. We direct respondent no. 4 to take steps to obtain such certificate and within a period of six weeks from today. We expect the municipal corporation to inspect and monitor the construction activity and not leave the members of the society at the mercy of the developer. Such tendency of developers and who have been authorised way back in 2007 to commence, carry out and complete construction activity at site should be strongly deprecated. Whatever may be the issues raised during the construction, including litigations, it is hardly satisfying that from 2007-08 and till 2016, the construction activity resulted in only a 4 storeyed building constructed at site. Such dismal performance and given the advance technology available today must be looked into by the corporation and if the developers do not adhere to their statements given to this court,

the corporation must step in. If the builders and developers are acting in such a manner, then, the corporation must impress upon the parties that if the construction activities are not carried out and completed within the stipulated time, then, they will have to engage somebody else.

7) The writ petition is disposed of with further direction that all the pay orders and of the arrears of compensation shall be handed over to Mr. Kale appearing for the petitioners.

(DR. SHALINI PHANSALKAR-JOSHI, J.) (S.C.DHARMADHIKARI, J.)