

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.4420 OF 2016

Mrs. Sabera Mehboob Khan and ors. : Petitioners
versus
State of Maharashtra and ors. : Respondents.

Mrs. Manjula Rao a/w Mr. Ashok Kumar Dubey a/w Mr. K D Hadkar for the Petitioners.

Mr. J P Yagnik, APP for the Respondents/State.

Mr. K J Waghmare for the Respondent Nos.7 to 9.

Mr. S I Memon for the Respondent Nos.10 to 13.

**CORAM : R. M. SAVANT &
SANDEEP K. SHINDE, JJ.**

DATE : 09th AUGUST 2017

P.C.

1 The relief sought in the above Criminal Writ Petition is by way of a direction to the Respondent Nos. 1 to 4 to appoint an independent Investigating Officer, to take cognizance of the complaints made by the Petitioners against the Respondent Nos.10 to 13 and to further register the offence under Sections 406, 408, 420, 120B r/w 34 of the Indian Penal Code and the relevant Sections of the Maharashtra Ownership of Flats Act, 1963.

2 The Petitioners claim to be the tenants of building known as Khatijabai Chawl, Pipe Road, S.G.Barve Marg, Kurla (West), Mumbai. The said building has been taken up for re-development under Regulation 33(7) of the Development Control Regulations 1991 and the Respondent No.10 is redeveloping the said property under the said Regulation. Since the tenants of

the original structures would be entitled to permanent alternate accommodation, an agreement was entered into with the tenants which agreement is described as Agreement for Alternate Accommodation, one such agreement is annexed at Exhibit B to the above Petition. The said agreement is dated 01/12/2010 and is between the partners of the Respondent No.10 and one Rizwana Mohd. Yusuf.

Prior to any development which can be undertaken under Regulation 33(7), the Mumbai Building Repairs and Reconstructions Board (MBRRB) publishes a list of tenants/occupants and the area in their occupation and calls for the objections/suggestions and it is thereafter that the said list of tenants is certified. The developer has to allot permanent alternate accommodation in terms of the said list and as per the entitlement of the tenants to residential and commercial premises and to the Built-up areas mentioned in the said Regulation 33(7).

3 The gravamen of the allegations of the Petitioners in the complaints which they want to be investigated is as regards the allegation of non-compliance of the agreement entered into between the Petitioners and the Respondent No.10. In so far as the non-compliance of the agreement is concerned, it seems that the Petitioners have filed Suits in the Bombay City Civil Court being Suit Nos.605 of 2017 and 606 of 2017 for specific

performance. It seems that the Petitioners have also filed complaints in the Consumers Disputes Redressal Forum, the numbers of such complaints have been mentioned in paragraphs 20 and 21 of the reply filed by the Respondent No.10 in the above Petition.

4 In our view, therefore, the reliefs sought by the Petitioners in the above Criminal Writ Petition cannot be granted. Prima faice the disputes which the Petitioners want the Respondent Nos.1 to 4 to investigate revolve around the civil dispute between the parties as regards the area of the flat which the Petitioners are entitled to as permanent alternate accommodation and the transit rent which the Petitioners are claiming. This can be deciphered from the fact that the learned counsel for the Respondent Nos.10 to 13 Shri S I Memon stated that the Respondent No.10 would allot to the Petitioners such area as would be their entitlement as per Regulation 33(7) of the Development Control Regulations 1991.

5 In that view of the matter, the relief sought in the above Criminal Writ Petition cannot be granted. The same is accordingly dismissed.

[SANDEEP K. SHINDE, J]

[R.M.SAVANT, J]