

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.236 OF 2018

M/s Sunrise Lifestyle & Homes
Pvt. Ltd.

... Petitioner

Versus

State of Maharashtra
Through its Principal Secretary
And Others

... Respondents

**ALONGWITH
WRIT PETITION NO.304 OF 2018**

Mrs. Shamim Fazal And Another
Versus

... Petitioners

State of Maharashtra
Through its Principal Secretary
And Others

... Respondents

.....

Mr. Jagdish Reddy I/b Abhijit Patil for the Petitioner in Writ Petition No.236 of 2018 and for Respondent No.6 in Writ Petition No.304 of 2018.
Mr. A.L. Patki, Additional Government Pleader for Respondent No.1 in both petitions.

Mr. V.P. Sawant for Respondent Nos.2 and 3 in both petitions.

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CORAM : S.C.GUPTE, J.

DATE : 10 APRIL 2018

P.C. :

. **Rule.**

2 Rule is taken up for hearing forthwith by consent of the parties.

3 These petitions challenge an order passed by the Chief Officer, Mumbai Building Repairs & Reconstruction Board ("MBRR Board") dated 4

July 2016 and also the appellate order passed by the Vice President and CEO, MHADA dated 10 April 2017 confirming that order.

4 The main grievance in these two petitions, respectively, by the developer and tenants/occupants, who claim alternative accommodation in the redeveloped building of MHADA redevelopment project under DCR 33(7), is that they were not heard before the original order concerning eligibility of tenants/occupants was passed by the Chief Officer, MBRR Board. It is not in dispute that the developer and tenants/occupants were indeed not heard before impugned order was passed. Despite this being pointed out to the Appellate Authority, there was no remand; instead, the Appellate Authority proceeded to pass an order on merits. In the premises, there is a case made out for quashing of the impugned orders of the Vice President and CEO, MHADA as well as the Chief Officer, MBRR Board and remanding the matter for fresh hearing in accordance with law to the Chief Officer.

5 Accordingly, Rule is made absolute and the impugned orders dated 4 July 2016 and 10 April 2017 are quashed and set aside and the matter is remanded to the Chief Officer, Mumbai Building Repairs & Reconstruction Board for a fresh hearing in accordance with law. The Chief Officer shall ensure that the Petitioners herein (occupants as well as developer) are heard in the matter before any order is passed.

(S.C. GUPTE, J.)