

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION NO.2285 OF 2021
IN
WRIT PETITION (LODGING) NO.5332 OF 2020**

Nirman Realtors & Developers Ltd. ... Applicant

In the matter between

Taslim Bano Vasim Khan & Ors. ... Petitioners

Vs.

Slum Rehabilitation Authority & Ors. ... Respondents

Mr.Anuj Narula i/b M/s.Jhangiani & Associates for the Applicant.

Mr.Altaf Khan for the Petitioners.

Mr.Anoop Patil with Mr.Shashank Shubham for Respondent Nos.1 and 2.

Mr.Abhay Patki, Addl.GP for Respondent-State.

Mr.Nitesh Acharya for Respondent No.4.

**CORAM: UJJAL BHUYAN AND
MADHAV JAMDAR, JJ.**

DATE : 5TH OCTOBER, 2021.

P.C:-

Heard learned Counsel for the parties.

2. This Interim Application has been filed by Applicant/Original Respondent No.3 – Developer praying for the following reliefs :

“(a) That time to deposit the balance sum of Rs.1.50 crores out of the ordered sum of Rs.2 crores in the registry of this Hon’ble Court be extended by 2 months from the date of the order thereon.

(b) That upon the deposit of Rs.2 crores by Applicants the order appointing Court Receiver for taking over the present scheme by cancellation of the appointment of Respondent No.3 as per clause (a) of the operative part of order dated 24th August, 2021, be vacated and set aside.

(c) Pending the hearing and final disposal of the present Application, this Hon'ble Court be pleased to stay the execution and implementation of the order dated 24th August, 2021."

3. On 24.08.2021 this Court heard the matter at considerable length.

4. Writ Petition is for a direction to Respondent No.3 for payment of arrears of transit rent. In paragraph 6 of the order dated 24.08.2021 this Court noted the conduct of Respondent No.3 in the following terms :-

"6. We heard both the sides at length. It is to be noted that in the present proceedings as per the contention of the petitioner more than two crores rupees were due and payable by respondent No.3 towards rental charges. Not only that, this Court by an order dated 20th January, 2021 and 17th February, 2021 granted concession to respondent No.3 to clear the arrears of rental compensation but he failed and neglected to do so. Not only that, 4 of 6 today also, learned Counsel appearing on behalf of respondent No.3 after taking instructions from his client submits that they require more than six months to clear the said arrears. This itself shows that there is no intention on the part of respondent No.3 to clear the petitioners' arrears of rental compensation. Therefore, it is necessary in the interest of justice to appoint Court Receiver for taking over the

present re-development from respondent No.3 and recover the petitioners' arrears of rental compensation and complete the said development according to law. It is made clear that the Court Receiver can appoint some other developer to complete the said development in the interest of the petitioners and similarly affected persons.”

5. Thereafter the following order came to be passed :-

“(a) Interim relief in terms of prayer clause (B) of the Petition which reads thus :

(B) That this Hon’ble Court exercising powers under Article 226 and 227 of the Constitution of India, 1950, be pleased to appoint Court Receiver for taking over the present Scheme, by cancelling appointment of Respondent –Developer as Developer, so as to complete the present S.R. Scheme, through some competent Developer, by paying outstanding transit rent to the 62 Petitioners [and other eligible slum dwellers, as per their entitlement].

(b) It is made clear that Court Receiver to act upon the present order after one and half months if respondent No.3 failed and neglected to deposit sum of Rs.2,00,000,00/- (Rs. Two Crores only) in the Registry of this Court.

(c) Matter to appear on board on 29th October, 2021 under the caption “For Directions”.”

6. Learned Counsel for the Applicant-Respondent No.3 submits that he has a cheque of Rs.50,00,000.00 with him today which can be delivered to the Petitioners straight away if the Court so directs and seeks further two months time to make good the balance payment.

7. However, such contention of learned Counsel for the Applicant-Respondent No.3 is resisted by learned Counsel for the Original Petitioners. He submits that Respondent No.3 had filed Petition for Special Leave to Appeal No.14400 of 2021 before the Supreme Court assailing the legality and validity of the order dated 24.08.2021. However, vide order 24.09.2021 Special Leave Petition was dismissed as withdrawn.

8. In the light of the above, we are not inclined to pass any order in the Interim Application.

9. Interim Application is dismissed.

[MADHAV JAMDAR, J.]

[UJJAL BHUYAN, J.]