

2. Learned counsel for respondent No.3 states that respondent No.4, with whom respondent No.3 had entered into an agreement, is already satisfied and, therefore, respondent No.4 is not a necessary party to this petition. Statement is accepted.

3. In view of the statement made by learned counsel for respondent No.3, learned counsel for the petitioners seeks liberty to delete respondent No.4 from the cause title of the petition.

4. Leave, as sought for, is granted. Amendment to be carried out forthwith. Re-verification is dispensed with. Amendment shall also be carried out in the copy of the petition already supplied to the respondents.

5. In this petition filed under Article 226 of the Constitution of India, the petitioners seek a writ of mandamus directing respondent No.2 to issue notices to 'Stop Work' and/or refuse to grant further Commencement Certificate in respect of plot of land described in prayer clause (a) of the petition, till provision is made for the permanent alternate accommodation to all the petitioners in the proposed construction work. There is a dispute, according to respondent No.3, about the claim of tenancy made by the petitioners. Learned counsel for respondent No.3, on instructions, states that in the building under construction on the plot of land situate at Survey No.54, Hissa

No.9(pt.), C.T.S. No.3637 to 3666 situate at Village Gajbandhan Patharli, Dombivli (East), Taluka Kalyan, District Thane, his client would reserve four tenements i.e. each admeasuring about 250 sq. ft. i.e. one each for each of the petitioners. Learned counsel further states on instructions that his client shall apply for modification of the existing building plan within two weeks from today and inform the petitioners the flat numbers earmarked for each of them, without prejudice to the rights and contentions of respondent No.3 that the petitioners are not the tenants of respondent No.3 as on date. Statement is accepted.

6. In view of the above statement, Mr. Kini, learned counsel for the petitioners, on instructions, states that his clients would file appropriate proceedings for declaration of their right that they are existing tenants of respondent No.3. Statement is accepted.

7. Respondent No.3 shall not create any third party right or part with possession of the said four tenements in favour of any third party, without obtaining prior permission from this Court, for a period of six months from today.

8. It is made clear that the petitioners would be at liberty to apply for interim relief in the proceedings proposed to be filed by the petitioners in respect of the said tenements before the civil court. If the petitioners succeed in the said suit and prove their

entitlement for permanent alternate accommodation as tenants of respondent No.3, respondent No.3 shall handover the vacant possession of the four tenements to the petitioners as tenants, within two weeks from the date of production of authenticated copy of the decree passed by the competent court.

9. If there is any demand for payment of maintenance or outgoings in respect of the said four tenements, which are directed to be kept vacant for a particular period, is made by the respondent No.3, the petitioners would be at liberty to apply for waiver of the same from the appropriate court, where the suit is pending.

10. Learned counsel for the petitioners, on instructions, states that his client would file a civil suit within four weeks from today. Statement is accepted. If any such suit is filed by the petitioners, the petitioners would be at liberty to apply for expeditious hearing of the same. If such an application is made, the civil court shall consider such application sympathetically.

11. It is made clear that this Court has not expressed any opinion on the merits of the petitioners' claim of tenancy in respect of the writ structure. All contentions of both the parties are kept open.

12. Writ petition is disposed off. No order as to costs. Rule made absolute.

13. All parties to act on the authenticated copy of this order.

[KAMAL KHATA, J.]

[R. D. DHANUKA, J.]