

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO. 10078 OF 2021

Nehru Nagar Sunil Cooperative
Housing Society ... **Petitioner**
Versus
M/s. Peal Concept Habitat LLP & Ors. ... **Respondents**

WITH
WRIT PETITION (L) NO. 16955 OF 2021

M/s. Pearl Concept Habitat LLP ... **Petitioner**
Versus
Maharashtra Housing and Area
Development Authority (MHADA) & Ors.... **Respondents**

WITH
WRIT PETITION NO. 3335 OF 2021

Nehru Nagar Amrapali Cooperative
Housing Society ... **Petitioner**
Versus
Maharashtra Housing and Area
Development Authority (MHADA) & Ors.... **Respondents**

Mr. Mayur Khandeparkar a/w. Mr. Vijay Dhingreja, Mr. Ravish Mishra, Mr. Jayraj V. Shinde i/b. Mr. Vijay Dhingreja, Advocate for the Petitioner in WP/16955/2021 and for Respondent No.1 in WPL/10078/2021.

Mr. Vachan Bodke a/w. Ms. Pinky Sharma, Mr. Aniket Tawade, Ms. Ankita Vishwakarma i/b. V & M Legal, Advocate for the Petitioner in WP/3335/2021 and for Respondent No.2 in WPL/16955/2021.

Mr. Kamlesh Ghumre a/w. Ms. Sonali Jadhav, Mr. Krishna Eppar, Advocates for Respondent No.2 in WPL/10078/2021.

Mr. Shankar P. Thorat, Advocate for the Respondent No.3 in WPL/16955/2021.

Mr. P. S. Gole, Advocate for the Petitioner in WPL/10078/2021.

Mr. Amit Shastri, AGP for the Respondent/State in WPL/10078/2021.

Ms. Uma Palsuledesai, AGP for the Respondent/State in WPL/16955/2021.

Mr. Sukanta Karmarkar, AGP for the Respondent/State in WP/3335/2021.

Mr. P. G. Lad a/w. Ms. Shreya Shah, Ms. Sayali Apte, Advocate for the Respondent/MHADA.

**CORAM: S.V. GANGAPURWALA &
S. M. MODAK, JJ.**

DATED : JULY 4, 2022

P.C.

1. The stalemate, it appears, is because of the wall standing between building No.132 and 133. It is accepted by all that because of the change in the lay out the DP road has undergone change. The width of the DP road near 132 is increased and 133 is reduced.

2. It is contended on behalf of the learned Counsel for the Planning Authority that the wall is required to be removed so that further steps can be undertaken.

3. The learned Counsel appearing for the occupant of building No.133 submits that as yet the developer has not obtained the Occupancy Certificate. The learned Advocate for the developer submits that if the wall is removed, the steps would be undertaken for obtaining the Occupancy Certificate. The said statement is accepted.

4. The learned Advocate for the Planning Authority submits that the Developer shall remove the wall at his own costs. The learned Counsel for the Developer agreed to the same.

5. The parties should cooperate with each other for obtaining the Occupancy Certificate. Now the only question remained is of rent for those who were occupying building No.132. It is submitted that the payment of Rs.40,00,000/- has been made. The amount outstanding is 2,60,00,000/-.

6. The learned Counsel for the petitioner in Writ Petition (L) No. 10078 of 2021 submits that within three days, the complaint filed before the various Authorities would be withdrawn by the petitioner. The chart has been given by the learned Advocate for the Developer as to the manner in which the payment would be made. The same reads thus :

- i. Rs.50,00,000/- on or before 31/07/2022
- ii. Rs.50,00,000/- on or before 30/09/2022
- iii. Rs.50,00,000/- on or before 30/11/2022
- iv. Rs.50,00,000/- on or before 31/01/2023
- v. Rs.60,00,000/- on or before 28/02/2023

7. The chart that has been given is excluding the current rent amount that has to be paid by the Developer to the persons occupying building No.132. Regular rent shall be regularly paid to these persons as per the agreement. If any default is committed by the Developer in payment of the amount as reproduced above, Developer may make himself liable for contempt. MHADA may provide necessary assistance for removal of the wall in question including police protection if required.

8. Writ petitions are accordingly disposed of. No costs.

(S. M. MODAK, J.)

(S.V. GANGAPURWALA, J.)

RAJU
DATTATRAYA
GAIKWAD
Digitally signed
by RAJU
DATTATRAYA
GAIKWAD
Date:
2022.07.07
13:43:36
+0530