

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

WRIT PETITION NO. 495 OF 2023

Laxman Pandurang Honrao & Ors. ...Petitioners
Versus
The State of Maharashtra Thr. Department
of Urban development & Ors. ...Respondents

**WITH
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2105 OF 2023**

Pure Value Infra Project Pvt. Ltd. ...Petitioners
Versus
MCGM & Ors. ...Respondents

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Mr. Akshay Kapadia for the Petitioner.
Mr. Sukanta Karmakar, AGP for State.
Mr. Kunal Waghmare for MCGM.
Mrs. Sarita Donde for Respondent Nos.5 to 12.
Mr. Kedar Prabhu for Respondent No.13.

**CORAM: G. S. KULKARNI &
R. N. LADDHA, JJ.
DATE : APRIL 18, 2023**

P.C.

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1. We have heard learned counsel for the parties.
2. This petition is filed praying for the following reliefs:-

“(a) That this Hon’ble Court may kindly issue the writ of mandamus or any other writ, order or direction in the nature of writ of mandamus, and thereby direct the Respondent Nos.2 to 4 to initiate necessary action against Respondent Nos.5 to 12 for evicting the premises on temporary basis so that the Petitioners can carry out the

repair works as suggested by the TAC Committee.

(b) That this Hon'ble Court may kindly issue the writ of mandamus or any other writ, order or direction in the nature of writ of mandamus, and thereby direct the Respondent Nos.2 to 3 to decide the representation dated 31.12.2022 within a period of one week from the date of filing of the present Writ Petition.

(c) That this Hon'ble Court may kindly issue the writ of mandamus or any other writ, order or direction in the nature of writ of mandamus, and thereby direct the Respondent Nos.4 to not to interfere in the process of repair works which have been carried out by the Petitioners.

(d) Pending the hearing and final disposal of the present Writ Petition, this Hon'ble Court may kindly restrain the Respondents from creating any obstacle in repairs works and further direct them to evict the premises immediately for the smooth repair works.

(e) Interim and ad-interim reliefs in terms of prayer clause (d) above be granted.

(f) Any such other and further reliefs be granted as this Hon'ble Court may deem fit and proper."

3. On the earlier occasion, we had adjourned the present proceedings to enable respondent no. 13 as also respondent nos. 5 to 12 to inform the Court of their willingness for redevelopment and accordingly, had passed the following order:-

*"1. To enable learned counsel for respondent no.13 to take instructions, stand over to **18 April, 2023 (H.O.B.)**.*

2. Let Writ Petition (L.) No. 6019 of 2023 filed by respondent no.13 be tagged along with this petition. If

respondent no.13 as also the other tenants who are represented by Ms. Dande are interested in redevelopment, a short affidavit of their intention to undertake redevelopment and the schedule of redevelopment which they proposed to undertake, be placed on record.”

4. In pursuance of the above order, an affidavit of Mr. Rakesh Mulchand Kothari, Director of respondent No.13, is placed on record, *inter alia* stating that an expeditious redevelopment is proposed. The learned counsel for respondent No.13 has also informed the Court that respondent No.13 has entered into Permanent Alternate Accommodation Agreement (PAAA) with twenty one tenants.

5. Learned counsel for respondent Nos.5 to 12/ tenants have also tendered affidavits on behalf of her clients *inter alia* supporting the redevelopment and confirming that Permanent Alternate Accommodation Agreements have been entered with her clients by respondent No.13.

6. Thus, the position appears to be that there is certainly an inclination to undertake redevelopment.

7. Learned counsel for the respondent No.13 on instructions, states that within 4 weeks from today an

application for an IOD in regard to the redevelopment shall be submitted with the Municipal Corporation. We accept such statement as made on behalf of respondent No.13.

8. The contentions of the petitioners is that the petitioners be permitted to continue to reside in their respective tenements till an IOD is issued.

9. The learned counsel for respondent No.13 submits that his client would not have any objection for the petitioners to continue to reside in their respective tenements till IOD is issued by the Municipal Corporation. He, however, submits that petitioners shall reside in their respective tenements at their own risk and consequences.

10. Considering the facts and circumstance of the case, we also caution the petitioner not to undertake any aggressive repairs which may deteriorate the condition of the building and more importantly when the petitioners as also the other tenants and respondent No.13 are inclined to undertake redevelopment.

11. In our opinion, it is in the interest of all the parties that

steps in regard to the redevelopment are taken as expeditiously as possible. The petitioners are also agreeable to enter into Permanent Alternate Accommodation Agreements with respondent No.13, the parties agree shall be entered within a period of 6 weeks from the date of issuance of IOD.

12. In the above circumstances, further adjudication of the petition is not called for. It is, accordingly, disposed of in terms of above observations. No costs.

13. All contentions of the parties in respect of the proposed redevelopment are expressly kept open.

14. At this stage, learned counsel for the petitioners fairly submits that his clients would withdraw the pending suit in view of the above orders passed by this Court.

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15. Writ Petition No. 2105 of 2023 also stands disposed of in view of the above orders as made by us in disposing of Writ Petition No. 495 of 2023.

[R. N. LADDHA, J.]

[G.S. KULKARNI, J.]