

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
WRIT PETITION (L) NO. 6757 OF 2023**

Mohammed Hussein Ali Mohammed Umatia ...Petitioner  
*Versus*  
Municipal Corporation of Greater Mumbai ...Respondents

**WITH  
WRIT PETITION (L) NO. 7599 OF 2023  
WITH  
INTERIM APPLICATION (L) NO. 24598 OF 2023**

Tanvir Alam Parvez Alam Ansari ...Petitioner  
*Versus*  
Mumbai Building Repairs and Reconstruction ...Respondents  
Board through its Chief Officer

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**WITH  
WRIT PETITION (L) NO. 1195 OF 2023**

Ebrahim Ismail Ansari Caasra Mubashir Ansari ...Petitioner  
*Versus*  
Maharashtra Housing Area Development ...Respondents  
Authority through its Vice President and CEO

**WITH  
WRIT PETITION (L) NO. 23453 OF 2022  
WITH**

**INTERIM APPLICATION (L) NO. 17842 OF 2023**

**WITH**

**INTERIM APPLICATION NO. 874 OF 2023**

Zahid Ali Shaukat Ali Ansari ...Petitioner

*Versus*

Maharashtra Housing Area Development ...Respondents  
Authority through its Vice President and CEO

**WITH**

**WRIT PETITION (L) NO. 23454 OF 2022**

**WITH**

**INTERIM APPLICATION (L) NO. 9332 OF 2023**

**WITH**

**INTERIM APPLICATION (L) NO. 17840 OF 2023**

**WITH**

**INTERIM APPLICATION (L) NO. 17842 OF 2023**

Ashik Abbas Hasanali Sunasar & Anr ...Petitioners

*Versus*

Maharashtra Housing Area Development ...Respondents  
Authority through its Vice President and CEO

**WITH**

**WRIT PETITION (L) NO. 23998 OF 2022**

**WITH**

**INTERIM APPLICATION (L) NO. 17841 OF 2023**

Sayed Tabassum Parvin Mohammed Sharif ...Petitioner

*Versus*

Maharashtra Housing Area Development ...Respondent

Authority through its Vice President and CEO

**WITH**

**WRIT PETITION (L) NO. 24815 OF 2022**

Soft Luggage Accutate Fitting Co. ...Petitioner

*Versus*

Municipal Corporation of Greater Mumbai & ...Respondents  
Ors

**WITH**

**WRIT PETITION (L) NO. 22670 OF 2023**

Godrej Residency Private Limited ...Petitioner

*Versus*

The Municipal Corporation of Greater Mumbai ...Respondents  
& Ors

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**Mr Sharan Jagtiani, Senior Advocate, with Mayur Khandeparkar, Amrut Joshi, Akshay Doctor, Aneesa Cheema, Dipti Das, Sunil A Vyas Deep Morabia, Shraddha Ambre & Shriya Nalawade i/b Fox Mandal & Associates LLP for the Petitioner in WPL/22670/2023.**

**Mr Yahya Ghoghari, with Mustafa Shabir Shamim & Apeksha Sharma i/b. Shamim & Co., for the Petitioners in WPL/24815/2022.**

**Mr Mayur Khandeparkar, with, Amrut Joshi, Aneesa Cheema, Sunil A Vyas, Shriya Nalawade, Deep Morabia, i/b Fox Mandal & Associates LLP, for the Applicant in IAL/17840/2023.**

**Mr Vivek Shukla, with Bushra Sayed, i/b V Shukla & Associates, for the Petitioner in WPL/23453/2022, WPL/23998/2022, WPL/24815/2022.**

**Mr Raj Awasthi, i/b Pragya Mishra, for the Petitioner in WPL/7599/2023.**

- Mr Vinayak Katti**, with Rukhsar Ansari, Gopal Parab, for the Applicant in IAL/24598/2023.
- Mr Mayur Khandeparkar**, with, Amrut Joshi, Aneesa Cheema, Sunil A Vyas, Shriya Nalawade, Deep Morabia, i/b Fox Mandal & Associates LLP, for the Applicant in IAL/17350/2023,
- Mr Girish Godbole**, Senior Advocate, with Rujuta Patil, Yohan Shah, Hasan Mushabher, i/b, Negandhi Shah & Himayatullah for Neelkamal Realtors (Developer), in all matters.
- Mr Sharan Jagtiani**, Senior Advocate, with Amrut Joshi, Akshay Doctor, Aneesa Cheema, Dipti Das, Sunil A Vyas Deep Morabia, Shraddha Ambre & Shriya Nalawade i/b Fox Mandal & Associates LLP for the Applicant in IAL 17350/2023.
- Mr Karl Tamboly**, with Amrut Joshi, Akshay Doctor, Aneesa Cheema, Dipti Das, Sunil A Vyas, Deep Morabia, Shraddha Ambre & Shriya Nalawade i/b Fox Mandal & Associates LLP for Respondent No 5 in WPL/24815/2023.
- Mr Amrut Joshi**, with Aneesa Cheema, Dipti Das, Sunil Vyas, Shriya Nalawade, Deep Morabia & Shraddha Ambre, i/b Fox Mandal & Associates LLP, for Respondent No. 7 in WPL/23998/2022.
- Mr Amrut Joshi**, with Aneesa Cheema, Dipti Das, Sunil Vyas, Shriya Nalawade, Deep Morabia & Shraddha Ambre, i/b Fox Mandal & Associates LLP, for Respondent No. 8 in WP/1195/2023.
- Mr Amrut Joshi**, with Aneesa Cheema, Dipti Das, Sunil Vyas, Shriya Nalawade, Deep, Morabia & Shraddha Ambre, i/b Fox Mandal & Associates LLP, for Respondent No. 6 in WPL/7599/2023.
- Mr Mayur Khandeparkar**, with, Amrut Joshi, Aneesa Cheema, Sunil A Vyas, Shriya Nalawade, Deep Morabia & Shraddha Ambre, i/b Fox Mandal & Associates LLP, for Respondent No. 5 in WPL/23453/2022, for Respondent No. 7 in WPL/6757/2023 & WPL/23454/2022 & IAL/9332/2023.
- Mr Vishwajit Sawant**, Senior Advocate, with Dhruti Kapadia & Pooja Yadav, i/b Sunil Sonawane, for the Respondent-BMC.
- Mr PG Lad**, with Sayli Apte, for the Respondent-MHADA.
- Mr SR Gaud**, for Respondent No. 107 in WPL/22670/2023.
- Mr SK Dhekale**, Court Receiver is present.
- Ms Ujwala Sankpal**, Master (Adm), for the Court Receiver.
- Mr Rahul Kandge**, AE (BP), E Ward, Present in Court.

**Mr Abrar Khan, AE (BF) E Ward, Present in Court.**

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**CORAM G.S. Patel &  
Kamal Khata, JJ.**

**DATED: 8th September 2023**

**PC:-**

1. These Writ Petitions all relate to the layout development at Rangwala Compound at Jacob Circle Mahalaxmi, Mumbai. All Petitioners have a claim to some or the other permanent alternate accommodation. They are all transit buildings. The sketch plan that we referred to in the Raj Bucket Factory matter is also appended to this order.

2. We also have a chart of the Petitioners who have been allotted permanent alternate accommodation but who have refused to vacate the transit accommodation. There is a separate list with another chart setting out Petition-wise the amounts due and the arrears of transit rent. These charts are also annexed.

**VACATING TRANSIT ACCOMMODATION:**

3. There can be no dispute about this. The transit buildings are beyond their projected lifespan. They have received notices under Section 354 of the Mumbai Municipal Corporation Act, 1888 (“MMC Act”). All protective orders will be vacated. At best, these persons will have such time as the MCGM or MHADA may grant them. Those who have already taken permanent alternate accommodation premises are not to be given additional time to

vacate. We are not ourselves extending time because it is our experience that once an order of this kind is made, repeated applications are made for extension usually on the grounds that there are monsoons, a Ganpati festival, school examinations and so on and so forth to the end of the chapter. Development cannot be held up for any of these reasons.

### **TRANSIT RENT:**

4. The provision that we make for transit rent is as follows:
  - (a) We are presently accepting on a without prejudice basis the statement by the developers of the amount of transit rent that is due. This does not mean that we have rejected the claims of any of the Petitioners for any additional or higher amount. It only means that these persons will have to pursue remedies independently, whether by way of a suit or in applications to MHADA with sufficient documentation to establish that they are entitled to a larger amount as arrears of transit rent.
  - (b) The transit rent is computed up to the date that these persons were offered possession of PAA tenements by the developer. A refusal to take possession of permanent alternate accommodation cannot result in a continuance of the transit rent obligation. A person cannot say that he or she wants to continue in transit

accommodation or to receive transit rent even though permanent alternate accommodation is available and is offered.

5. We expressly reject the right to transit rent for those who have already shifted to permanent alternate accommodation but are yet refusing to deliver vacant possession of the transit accommodation or have been offered permanent alternate accommodation and are refusing to shift. No such claim can possibly arise.

6. The procedure will be that Godrej Residency Pvt Ltd will pay the amount of transit rent as computed to MHADA. The reason we do not permit direct payment is to avoid potential conflict between rival claimants. Who is entitled to withdraw the transit rent is a matter that will be decided by MHADA. If there are any other rival claims they are entitled to adopt appropriate proceedings in that regard.

7. As a general rule, where there are claims by heirs or groups of heirs or there are claims by allottees as opposed to heirs, these are not matters that can be decided by a Writ Court in the present proceedings. Where MHADA has certified an area, if there is a dispute about the area certified and the entitlement, appropriate proceedings will have to be filed because it is not possible for a Writ Court to act as a court of first appeal and substitute its decision for that of the decision-making authority.

8. The chart that is annexed shows the rival claims and the objections of the Petitioners.

**WRIT PETITION NO. 7599 OF 2023:**

9. Writ Petition No. 7599 of 2023 is somewhat peculiarly placed. MHADA has certified certain areas but they have been given 600 sq ft. The claims are that there were in fact two tenements and that therefore, a total 830 sq ft should have been allotted in alternative accommodation. The Petitioners claim to be those solely entitled to Flat No. 2005 which admeasures 600 sq ft. The rival claim is by one Farida Anwar Alam Ansari who has filed Writ Petition No. 1388 of 2022 before a learned single Judge. She has also filed an Interim Application in the present Writ Petition. . In order to protect the rival claims, we direct the Court Receiver to take possession of rehab building Flat No. 2005 on the 20th floor of rehab Building No. 1. He will stand appointed until further orders. He will appoint the three Petitioners in Writ Petition No. 7599 of 2023 as his agents. The usual agency agreement will be signed. But this will be without any terms as to royalty. The possession of the agents will continue pending the decision in the Single Judge Writ Petition No. 1388 of 2022.

10. In that particular case there may not be any question of transit rent. If there is, then the two groups are at liberty to make an appropriate application limited to transit rent to the competent authority at MHADA for determination as to the amounts and as to the distribution or entitlement.

**WRIT PETITION (L) NO. 9330 OF 2023:**

11. Writ Petition (L) No. 9330 of 2023 raises a fundamental dispute as to facts. MHADA has certified that the Petitioners are entitled to an allotment of two units in the permanent rehab buildings. The Petitioners say they are entitled to four. This cannot be the subject matter of a writ proceeding. There are seriously disputed questions of fact. The Petitioners are at liberty to file an appropriate civil proceeding for the determination of these rights.

12. Where there are any pending applications made to MHADA, we request MHADA to dispose of these at its earliest convenience and preferably within eight weeks from today.

**WRIT PETITION (L) NO. 24815 OF 2022:**

13. The Petitioner and the Respondent have signed Consent Terms in the Court of Small Causes. An offer has been made. We are told by the Advocate for the Petitioner that this has been accepted. It is for the parties to draw up the necessary documentation and give effect to that agreement within the time agreed between them. It is not for the Writ Court to supervise the execution of commercial contracts. No further orders are required in that regard.

14. We are now told that the Petitioner wants the previous offer and not the current offer. The Petitioner is under a complete misapprehension about the scope of Article 226 and the position of

a Writ Court. We do not know of any principle of law by which the Writ Court can dictate or decide the terms of a commercial agreement between the parties. If there is an offer made, it is open to the party to accept it, re-negotiate it or to file a civil suit for an adjudication of those disputes. No relief is possible in a Writ Court.

15. This does not mean that the transit accommodation can be allowed to be retained while that dispute is going on. We clarify that we have not permitted the transit buildings to continue to be in the occupation of any persons. They must be evacuated.

**WRIT PETITION (L) NO. 23998 OF 2022:**

16. The Petitioner in Writ Petition (L) No. 23998 of 2022 has many ration shops. We are concerned with only one that is in the transit building. It has not been vacated. A shop in rehab Building No. 1 has been constructed but not yet allotted. Mr Godbole states that the Petitioner is willing to pay transit rent or alternatively to provide in the immediate locality a suitable area at the developer's cost from which the Petitioner can carry on his ration shop business. We leave that choice to the Petitioner, but the Petitioner must vacate the transit building in any view of the matter.

17. As a general direction to all authorities concerned for all licenses including ration shops, establishments, etc, we direct that those authorities are to permit the Petitioner to temporarily conduct that ration shop business from the alternative premises that are offered and if accepted instead of transit rent. This is necessary

because these licenses are usually specific to identified built premises. The licensing regime does not take into account such situations of temporary or transit relocation. It should not occur that the Petitioner is unable to conduct the ration shop business from the alternative premises.

18. Liberty to the Petitioner to apply if there is any difficulty in this regard with any licensing authority.

19. We direct that the Petitioner be shown alternative premises but if he does not find any of them suitable, he will have to accept the transit rent that has been stated in this chart that is annexed to this order.

20. As to the certification process, we request MHADA to expedite this and complete that within a period of four weeks from today.

**WRIT PETITION (L) NO. 22670 OF 2023:**

21. Godrej has filed Writ Petition (L) No. 22670 of 2023. On instructions, learned Counsel for Godrej seeks leave to withdraw the Petition.

22. In view of this, the Writ Petition is dismissed as unconditionally withdrawn.

**GENERAL**

23. We make it clear that in none of these matters are we extending time to vacate. There is a notice from the MCGM. There are undertakings given. We expect the MCGM to engage in what it is constituted for, i.e., municipal administration, and TO get the transit buildings evacuated without delay and have them brought down.

**(Kamal Khata, J)**

**(G. S. Patel, J)**





**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**ORDINARY ORIGINAL CIVIL JURISDICTION**  
**WRIT PETITION (L) NO. 24815 OF 2022**

M/s Soft Luggage Accutate Fitting Co. ...Petitioner

Versus

The Municipal Corporation of Greater

Mumbai & Ors.

...Respondents

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- Respondent No. 5, Godrej Residency Private Limited, i.e. the Developer, is ready and willing to pay transit rent at the of Rs. 150/- per sq. ft. + GST for carpet area admeasuring 2,500 sq. ft. aggregating to a sum of Rs. 4,42,500/- per month and Rs. 100/- per sq. ft. + GST for carpet area admeasuring 1,250 sq. ft. of mezzanine, aggregating to a sum of Rs. 1,47,500/- per month.
  - Respondent No. 5 will pay transit rent to the Court Receiver/its agent, if appointed, and/or deposit the same before Competent Authority / MCGM, from the date of handing over possession of the temporary alternate accommodation in transit camp till the date the Petitioner is offered possession of the permanent alternate accommodation.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**ORDINARY ORIGINAL CIVIL JURISDICTION**

**WRIT PETITION (L) NO. 23998 OF 2022**

Sayed Tabassum Parvin Mohammed Sharif ...Petitioner

Versus

The Municipal Corporation of Greater

Mumbai & Ors.

...Respondents

- 
- Respondent No. 5, Godrej Residency Private Limited, i.e. the Developer, is ready and willing to pay transit rent at the of Rs. 150/- per sq. ft. + GST for carpet area admeasuring 180 sq ft. aggregating to a sum of Rs. 31,860/- per month.
  - Respondent No. 5 will pay transit rent to the Petitioner from the date of handing over possession of the temporary alternate accommodation in transit camp till the date the Petitioner is offered possession of the permanent alternate accommodation in Rehab Building No. 1.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**ORDINARY ORIGINAL CIVIL JURISDICTION**  
**WRIT PETITION (L) NO. 7599 OF 2023**

Tanvir Alam Parvez Alam Ansari & Ors. ...Petitioners

Versus

Mumbai Building Repairs & Reconstruction

Board & Ors. ...Respondents

- 
- Respondent No. 5, Godrej Residency Private Limited, i.e. the Developer, is ready and willing to pay transit rent in the sum of Rs.47,512/- (Tanvir Rs. 27,250/- and Farida Rs.20,262/-) per month.
  - The Respondent No. 5 will pay transit rent to the Court Receiver/its agent, if appointed, and/or deposit the same before MHADA, from the date of handing over possession of the temporary alternate accommodation in transit camp till the time of determination of *inter se* entitlement dispute pending before MHADA for handover of possession of the permanent alternate accommodation in Rehab Building No. 1, subject to the determination of their Application dated 13<sup>th</sup> March 2023, pending for adjudication before the Learned Chief Officer – M.B.R & R Board.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**ORDINARY ORIGINAL CIVIL JURISDICTION**  
**WRIT PETITION (L) NO. 6757 OF 2023**

Mohammed Hussein Ali Mohammed

Umatia & Ors.

...Petitioners

Versus

Municipal Corporation of Greater

Mumbai & Ors.

...Respondents

**ARREARS OF TRANSIT RENT**

| <b>Period for which the arrears of rent is payable</b> | <b>Payable to</b>                    | <b>Monthly Transit Rent payable (50%)</b> | <b>Total amount due and payable</b> |
|--------------------------------------------------------|--------------------------------------|-------------------------------------------|-------------------------------------|
| <b>September, 2020<br/>November, 2020</b>              | Mohammed Hussein Ali Mohammed Umatia | Rs. 13,625/-                              | Rs. 40,875/-                        |
| <b>September, 2020<br/>November, 2020</b>              | Mohammed Hussein Ali Mohammed Umatia | Rs. 13,625/-                              | Rs. 40,875/-                        |
| <b>September, 2020<br/>November, 2020</b>              | Mohammed Hussain Choudhary           | Rs. 13,625/-                              | Rs. 40,875/-                        |
| <b>September, 2020<br/>November, 2020</b>              | Sahmim Salman Makonji                | Rs. 13,625/-                              | Rs. 40,875/-                        |

|                        |                            |                     |                       |
|------------------------|----------------------------|---------------------|-----------------------|
| <b>September, 2020</b> | Malikunnisha               | Rs. 13,625/-        | Rs. 40,875/-          |
| <b>November, 2020</b>  | Gulam Hussein<br>Tharadara |                     |                       |
| <b>September, 2020</b> | Mohammad                   | Rs. 13,625/-        | Rs. 40,875/-          |
| <b>November, 2020</b>  | Raza Vazir<br>Bhai         |                     |                       |
| <b>Total</b>           |                            | <b>Rs. 81,750/-</b> | <b>Rs. 2,45,250/-</b> |

**Note:** Only 50% rent was payable as the tenant/ Petitioner was also occupying transit premises.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**ORDINARY ORIGINAL CIVIL JURISDICTION**  
**WRIT PETITION (L) NO. 23453 OF 2022**

Zahid Ali Shaukat Ali Ansari ...Petitioners

Versus

Maharashtra Housing and Area

Development Authority & Ors. ...Respondents

**ARREARS OF TRANSIT RENT**

| <b>Period for which the<br/>arrears of rent is<br/>payable</b> | <b>Monthly Transit<br/>Rent payable</b> | <b>Total amount<br/>due and payable</b> |
|----------------------------------------------------------------|-----------------------------------------|-----------------------------------------|
| <b>September 2020 –<br/>November 2020</b>                      | Rs. 13,625                              | Rs. 40,875/-                            |

**Note:** Only 50% rent was payable as the tenant/ Petitioner was also occupying transit premises.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**ORDINARY ORIGINAL CIVIL JURISDICTION**  
**WRIT PETITION (L) NO. 23454 OF 2022**

Ashik Abbas Hasanali Sunasara & Anr. ...Petitioners

Versus

Maharashtra Housing and Area

Development Authority & Ors. ...Respondents

**ARREARS OF TRANSIT RENT IN RESPECT OF**  
**COMMERCIAL TENEMENT**

| <b>Period for which the<br/>arrears of rent is payable</b> | <b>Monthly<br/>Transit Rent<br/>payable</b> | <b>Total amount due<br/>and payable</b> |
|------------------------------------------------------------|---------------------------------------------|-----------------------------------------|
| <b>July 2022 - September<br/>2023</b>                      | Rs. 30,800 /-                               | Rs.4,62,000 /-                          |
| <b>until handover</b>                                      | Rs. 30,800 /-                               |                                         |

**ARREARS OF TRANSIT RENT IN RESPECT OF**  
**RESIDENTIAL TENEMENT**

| <b>Period for which the<br/>arrears of rent is<br/>payable</b> | <b>Monthly Transit<br/>Rent payable</b> | <b>Total amount<br/>due and payable</b> |
|----------------------------------------------------------------|-----------------------------------------|-----------------------------------------|
| <b>September 2020 –<br/>November 2020</b>                      | Rs. 16,000/-                            | Rs. 48,000/-                            |