

Ashwini

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 2015 OF 2019
WITH
INTERIM APPLICATION(L) NO. 40265 OF 2022
IN
WRIT PETITION NO. 2015 OF 2019

Ramchandra Building Tenants & Anr ...Petitioners
Versus
Maharashtra Housing & Area Development ...Respondents
Authority (MHADA) & Ors

Mr Karl Tamboly, *with Kausar Banatwala & Paluck Bengali, i/b Tushar Goradia, for the Petitioners.*
Mr PG Lad, *with Sayli Apte & Shreya Shah, for Respondents Nos. 1 & 2-MHADA.*
Mr Sanjay Jain, , *with Gauri Mestha, i/b LJ Law, for Respondents Nos. 3(a) to 3(g).*
Mr P Ranjan, *i/b Halai & Co, for the Intervenors/Shop owners.*

CORAM G.S. Patel &
Kamal Khata, JJ.
DATED: 30th October 2023

PC:-

1. Writ Petition No 2015 of 2019 is by the Ramchandra Building Tenants Association and an individual who is the Honorary

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Secretary of that Association. The building is at Lokmanya Tilak Marg, Opposite GT Hospital in the Bhuleshwar Division, Mumbai 400 002 (“**Ramchandra Building**”).

2. It is not necessary to enter into a discussion on the merits because Mr Tamboly for the Petitioners says that the Tenants Association which includes tenants of the floors above the ground floor i.e., from the first to the fifth floor have negotiated with the landlords of the building represented by Mr Jain. The landlord was originally Laxmibai Respondent No 3. She passed away. Her heirs are on record as Respondents Nos 3(a) to 3(g).

3. In the meantime, the Petitioners have also filed an Interim Application (L) No 40265 of 2022. To this are joined 15 persons who are said to be occupants of the ground floor of Ramchandra Building. These ground floor tenants are “Non Party Respondents” Nos 1 to 15. They claim to be separately represented before us today. They have various shops, one godown and several bakdas.

4. The complaint by these ground floor tenants is only made orally across the Bar. It is without an independent supporting Interim Application, let alone a Writ Petition. Some complaint is made that what is being offered by the landlords is negligible. Then there is a submission that the Court should direct the landlords to negotiate with these ground floor tenants. We do not see how any of this is possible in our Writ jurisdiction. We most emphatically do not see how it is possible at the instance of persons who have filed no Interim Application nor a Writ Petition, and who are simply

“Non Party Respondents” to seek substantive reliefs against the landlords who are properly joined as Respondents to the Petition.

5. In view of the statement made by Mr Tamboly for the Tenants Association, comprising tenants from the first to the fifth floor, we dispose of the Petition as not requiring further orders.

6. Both Mr Tamboly and Mr Jain submit that certain directions will be required to Maharashtra Housing And Area Development Authority (“MHADA”). It is the 1st Respondent. Mr Lad for MHADA is present before us.

7. To give this some context, there is an Memorandum of Understanding (“MoU”) between the Petitioners and the owners of 10th October 2023. The members of the Petitioners are to execute irrevocable consents in favour of the owners by no later than by 6th November 2023. We are told that all but two have already done so.

8. The Executive Engineer C-II of the Repair Board is to scrutinise the proposal submitted by the owners within three months from today. The owners and the Petitioners are required to submit the necessary documents to MHADA for scrutiny and verification including without limitation for certification of tenancies/occupancies if required, no later than by 4th December 2023. MHADA will complete this process expeditiously and in any event by 31st January 2024.

9. The report in that regard is to be submitted to the Chief Officer of the Repair Board by 9th February 2024. MHADA will need to issue its 'No Objection Certificate' ("NOC") so that the MCGM can take up the owners' plans for approval. MHADA NOC can thus be directed to be issued by 16th February 2024. The owners are, in the meantime, at liberty to submit their plans to the planning authority namely the MCGM even without waiting for the MHADA NOC but subject to the understanding and commitment that any building permissions that will be granted will be required to be subject to the MHADA NOC and, further, that even if an Intimation of Disapproval ("IoD") and a Commencement Certificate ("CC") are issued, no construction or development will commence without MHADA NOC. We have only issued these directions to compress the time-frames in the interests of the Petitioners/tenants.

10. The Petition is disposed of in these terms with liberty to the parties to apply.

11. The Interim Application does not survive and is disposed of as infructuous.

(Kamal Khata, J)

(G. S. Patel, J)