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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 895 OF 2015

WITH

SHOW CAUSE NOTICE NO. 275 OF 2018

WITH

CHAMBER SUMMONS NO. 163 OF 2016

WITH

NOTICE OF MOTION NO. 324 OF 2018

WITH

CHAMBER SUMMONS (L) NO. 282 OF 2018

WITH

NOTICE OF MOTION NO. 81 OF 2019

Salauddin Ibrahim Mehsaniya & Ors

...Petitioners

Versus

**Maharashtra Housing and Area Development
Authority & Ors**

...Respondents

WITH

WRIT PETITION (L) NO. 815 OF 2020

WITH

CHAMBER ORDER (L) NO. 5799 OF 2023

WITH

CHAMBER SUMMONS (L) NO. 273 OF 2018

WITH

NOTICE OF MOTION NO. 306 OF 2019

WITH

CHAMBER SUMMONS (L) NO. 282 OF 2018

WITH

WRIT PETITION NO. 3287 OF 2018

**WITH
WRIT PETITION NO. 1455 OF 2019
WITH
INTERIM APPLICATION NO. 444 OF 2023
WITH
WRIT PETITION NO. 85 OF 2016
WITH
INTERIM APPLICATION NO. 1658 OF 2019**

Ms Rashida Kherodwala, *for the Petitioner in WP 1455/2019.*

Mr Jahangir Khan, *with Amanullah Khan, for the Petitioner in WP 85/2016.*

Mr Sharad Bhansal, *with Sonam Sethia, i/b Juris Corp, for the Petitioner in WP 3287/2018.*

Mr Satyam R Gaud, *with Raj Saraf, S Shah & MR Gaud, for the Petitioner in WP 895/2015.*

Mr Sanjay Jain *with Chirag Sarawagi, Ashmita Salecha, Riya Thakkar & Viraj Bansod, i/b Tushar Goradia, for the Applicant in IA/1658/2019 in WP 85/2016(Amended Respondent No. 8)*

Mr Arif Bookwala, **Senior Advocate**, *Cyrus Ardeshir, Viraj Jadhar & Kivin P, i/b Chinmaya Acharya, for Respondent No.6.*

Mr PG Lad, *with Shreya Shah, for the Respondent-MHADA.*

Mr Sagar Patil, *for the Respondent-BMC.*

Mr Rohaan Cama, *for Wing D Society (Amended Respondent No. 9)*

**CORAM: G. S. Patel &
Neela Gokhale, JJ.**

DATED: 1st August 2023

PC:-

1. Mr Bookwala, on instructions, states that revised plans are to be submitted to the Municipal Corporation of Greater Mumbai

2. (“MCGM”) for sanction. These will be considered on merits. We, however, make it clear that the MCGM is required to hear the 8th Respondent represented by Mr Jain, i.e., the society of Wings ‘E’ and ‘F’, as also the society of Wing ‘D’ represented by Mr Cama, apparently the 9th Respondent.

3. The decision on the revised plan is to be on merits and in accordance with existing development control rules, regulations and norms. We are expressing no opinion at all on the merits of the proposal canvassed by Mr Bookwala’s client, the developers in question.

4. The other issue that remains is about the re-accommodation of 212 persons who have been certified as eligible by the Maharashtra Housing and Area Development Authority (“MHADA”). There is no question that this is the obligation of the developer and Mr Bookwala has quite correctly not disputed this aspect of the matter. How this is to be achieved in terms of a future construction is for the respective authorities to decide.

5. The consequences, however, of a failure to accommodate the 212 persons certified by MHADA are clear and are known to the developer as well. The developer will undoubtedly bear this in mind when it submits any proposal to the MCGM.

6. As far as Wings ‘A’ and ‘B’ are concerned, there are consent terms and the MCGM will be guided by those consent terms without requiring a separate written NOC from those two wings.

7. All other contentions as between Wings 'E', 'F' and 'D' and the developers are expressly kept open.

8. Any claims in regard to increases in transit rent are clearly the subject matter of civil proceedings and must be dealt with as such.

9. There is no question of releasing transit rent to any persons claiming to be heirs of a deceased certified occupants or tenants. There has to be an order of representation to the estate of the deceased certified occupants/tenants, whether by means of an heirship certificate, succession certificate, letters of administration or other valid order of a Court of competent jurisdiction.

10. This order will dispose of the three Writ Petitions and all Interim Applications in those three Writ Petitions.

11. All civil proceedings that are already filed or are to be instituted will proceed on merits.

(Neela Gokhale, J)

(G. S. Patel, J)