

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.6494 OF 2024

Shrikant Dattatray Vedak & Ors.

....Petitioners

V/S

Kusum Shivaji Ingawale & Ors.

....Respondents

**WITH
WRIT PETITION NO.6495 OF 2024**

Shrikant Dattatray Vedak & Ors.

....Petitioners

V/S

Kusum Shivaji Ingawale & Ors.

....Respondents

Mr. Mahesh Vishwakarma a/w Ms. Naina Sharma *for the Petitioners.*

Mr. Drupad S. Patil a/w Mr. Suyash Sule *for Respondent Nos.1 to 3 and 7.*

Mr. Rohit D. Joshi *for Respondent Nos.5 and 6.*

Mr. R.V. Dighe i/b Mr. A.S. Rao *for Respondent Nos.8 and 9.*

Mr. Hamid D. Mulla, AGP *for Respondent / State.*

**CORAM: SANDEEP V. MARNE, J.
DATE : 09 DECEMBER 2024.**

P.C.:

1. The challenge in the present Petitions is to the order dated 15 February 2024 passed by the learned District Judge-2, Panvel allowing Miscellaneous Civil Appeal Nos.22 of 2023 and 44 of 2022 and setting aside orders dated 22 July 2022 passed by the Trial Court on Applications at Exhibit-5 filed in Regular Civil Suit Nos.420 of 2021 and 410 of 2021. By orders dated 22 July 2022 the Trial Court had allowed Plaintiffs' Applications at Exhibit-5 and had restrained Defendant Nos.1 to 7 from taking

over possession of the suit premises as well as from commencing construction in accordance with plans sanctioned by Respondent-Municipal Corporation, from selling, transferring or creating third party rights therein as well as permitting the Plaintiffs to erect 15x10 square feet temporary tin sheds for residence of the Plaintiffs. The District Court has set aside the said orders of temporary injunction by orders dated 15 February 2024.

2. I have heard Mr. Vishwakarma, the learned counsel appearing for Petitioners/Plaintiffs, Mr. Patil, the learned counsel appearing for Respondent Nos.1 to 3 and 7, Mr. Joshi, the learned counsel appearing for Respondent Nos.5 and 6 and Mr. Dighe, the learned counsel appearing for Respondent Nos.8 and 9.

3. After having considered the submissions canvassed by the learned counsel appearing for parties, it is seen that there is no dispute to the position that all the premises of Plaintiffs have been demolished during pendency of the suit on account of dilapidated stage of the building. It appears that out of the total 11 Plaintiffs, tenancy in respect of 5 Plaintiffs has not been disputed by one set of landlords whereas tenancy in respect of balance 6 tenants is under dispute by another set of landlords. So far as undisputed tenants are concerned, their landlords have incorporated a clause in the development agreement for offering equivalent premises in the newly constructed building to them on tenancy basis. However in respect of the 6 disputed tenants,

their landlords apparently have not incorporated a similar clause in their development agreement. Mr. Patil, the learned counsel appearing for the said landlords, who dispute tenancy in respect of those 6 tenants, on taking instructions from his clients, makes a statement that premises having equivalent carpet area shall be reserved in the newly constructed building even in respect of those 6 disputed tenants, without prejudice to the rights and contentions raised in the suit. In my view, this will ensure that the alleged rights of all 11 tenants in respect of the carpet area in their possession is duly taken care of by reserving/alloting the same in the newly constructed building. The limited right a tenants has under provisions of sub section 6 of section 16 of the Maharashtra Rent Control Act, 1999 is to receive alternate premises in the newly constructed building equivalent to the carpet area of tenanted premises.

4. In my view, since interest of all the Plaintiffs are sufficiently protected, there is no question of putting any restraint on the landlords or their developers from erecting new building(s). The Appellate Court has rightly set aside the erroneous orders passed by the Trial Court. I therefore do not find any valid reason to entertain the present Petition. Recording the statement made by Mr. Patil on behalf of his clients, Writ Petitions are accordingly **rejected**.

(SANDEEP V. MARNE, J.)