

Arun

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 2536 OF 2018
WITH
INTERIM APPLICATION (L) NO. 24343 OF 2022
IN
WRIT PETITION NO. 2536 OF 2018

Saroj Indreshkumar Dube ...Petitioner
Versus
The State of Maharashtra & 7 Ors ...Respondents

Mr GR Dwivedi, *for the Petitioner.*
Mr Himanshu Takke, AGP, with Mr Amit Shastri, AGP, *for the*
Respondent-State.
Mr Milind V More, *for Respondents Nos. 4 & 5-SRA.*
Mr Shakeeb Shaikh, *i/b Diamondwala & Co, for Respondent No. 8.*
Mr Kunal Waghmare, *for the Respondent-MCGM.*

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RAMCHANDRA
SANKPAL

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CORAM G.S. Patel &
Kamal Khata, JJ.
DATED: 25th January 2024

PC:-

1. The Writ Petition can be disposed of.

2. The Advocate for the developer hands over the cheque in the amount of Rs.11,28,000/-, which according to the 8th Respondent is the entire amount of arrears. This is permitted with an undertaking and assurance to the court, which is accepted, that the will be honoured on presentment. The cheque will be deposited by Monday, 29th January 2024.

3. The claim is much higher. We cannot issue as Writ against a private Respondent for what is effectively a money decree in exercise of our jurisdiction under Article 226 of the Constitution of India. Therefore, this cheque is accepted by the Petitioner and his Advocate on a without prejudice basis but with specific liberty to adopt appropriate proceedings for recovery of any additional or remaining amount.

4. In any such claim may also include if permissible in law, a claim for periodic increments in transit rent or interest or both. In any such claim, all contentions on both sides are expressly kept open.

5. We dispose of the Petition but with liberty to the Petitioner to apply if the cheque is not honoured on presentment. We make it clear that if there is a default by the developer, the 8th Respondent, we may institute suo motu contempt proceedings apart from taking such other steps as may be necessary.

6. The pending Interim Application does not survive and is disposed of.

(Kamal Khata, J)

(G. S. Patel, J)