

Amol

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 2889 OF 2023

Prakash Sakharam Guram ...Petitioner
Versus
State of Maharashtra through The Urban ...Respondents
Development Department & Ors

Mr Mayur Khandeparkar, *with Kunal Maskar, for the Petitioner.*
Mr Abhay L Patki, Addl GP, *with Uma Palsuledesai, AGP, for the*
Respondent-State.
Mr Kunal Waghmare, *i/b Sunil Sonawane, for the Respondent-*
MCGM.
Mr Shailendra Mishra, *with Elton George, Advait Tamhankar,*
Sharad Rai & Ritika Chamaria, i/b M/s Shailendra Mishra &
Associates, for Respondent No 6.

CORAM G.S. Patel &
Kamal Khata, JJ.
DATED: 1st March 2024

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PC:-

1. As we have noted in our order of 22nd February 2024, the question of allotment of alternative premises is now resolved. The Petitioners are two brothers who had joined the hearing online. They confirm that they had no interest and no claim in the subject matter of the Petition. Flat No 6 and the equivalent Flat No 101 on the 1st floor of the redeveloped building can be given to the

Petitioner. Possession is to be delivered within one week of the Occupancy Certificate (“OC”) being received.

2. Paragraph 4 of our order of 22nd February 2024 noted that there remained a question of payment of rent or transit rent. We noted that this was in a state of uncertainty. Counsel had requested time to arrive at a figure, possibly a lumpsum figure. The understanding was that the Petitioner would continue not as an owner of Flat No 101 but as a tenant. This was because the developer owner confirmed that no incentive Floor Space Index (“FSI”) had been availed of. The dispute between the Petitioner and the developer has not yet resolved. The Petitioner insists on a payment of at least Rs. 35,000/- per month which is to be computed for the period since June 2015. This works out to roughly Rs 37,80,000/-. The 6th Respondent is not prepared to offer more than Rs 15 Lakhs as a lumpsum figure. The argument is that there was a delay caused by the Petitioner and the 6th Respondent has suffered financial loss in consequence. The exact amount of that loss is not quantified.

3. We understand the rival contentions and there yet may be some substance to the submissions on behalf of the 6th Respondent. Equally, it is correct that the Petitioner cannot now claim that his earlier obstruction or oppositions should have no consequence whatsoever. Having said that, it seems to us with rising prices and costs, an amount of Rs 15 Lakhs is probably inadequate and on the lower side. Both sides have obtained instructions to leave the final figure to the decision and discretion of this Court.

4. Accordingly, we exercise our discretion and direct 6th Respondent to make a lumpsum payment of Rs 22.5 Lakhs to the Petitioner. The amount is to be paid within four weeks from today. The amount will not carry interest.

5. The Petition is disposed of in these terms. There will be no order as to costs.

(Kamal Khata, J)

(G. S. Patel, J)