

Ashwini

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 2041 OF 2022
WITH
INTERIM APPLICATION (L) NO. 31265 OF 2023
IN
WRIT PETITION NO. 2041 OF 2022**

Sujay Parag Parekh & Ors ...Petitioners
Versus
The Municipal Corporation of Greater Mumbai ...Respondents
& Ors

**WITH
WRIT PETITION NO. 2959 OF 2021**

Shashank S Dhond ...Petitioner
Versus
The Municipal Corporation of Greater Mumbai ...Respondents
& Ors

**WITH
WRIT PETITION NO. 2752 OF 2021**

Vishwanath Pujari ...Petitioner
Versus
The Municipal Corporation of Greater Mumbai ...Respondents
& Ors

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Mr JS Kini, *with Aum Kini & Sapna Krishnappa, for the Petitioner in WP/2041/2022.*

Mr Mayur Khandeparkar, *with Mayank Bagla, Harsh L Behany & Saloni Manjrekar, i/b Harsh Behany (appeared online), for the Petitioner and for Respondent Nos 6 & 7 in WP/2041/2022 and for Respondent Nos 2 & 3 in WP/2752/2021 & WP/2959/2021.*

Mr Amit Shastri, AGP, *for the Respondent-State in WP/2041/2022.*
Ms Sayli Apte, *with Shreya Shah, i/b PG Lad, for the Respondent-MHADA.*

**CORAM G.S. Patel &
 Kamal Khata, JJ.**
DATED: 30th January 2024

PC:-

1. Heard. In our view, this is entirely a private dispute between the Petitioners, the developers (Respondent Nos 6 to 8) and the society of which the Petitioners are yet awaiting admission as members.
2. The Petitioners purchased various apartments in the building known as Mont Blanc No 16 in the 5th Respondent society's premises at Tilak Nagar, Chembur. The other flats are occupied by members of the society who are the original occupants when the society went for redevelopment.
3. The complaint in the Petition is about the adequacy of the width of what is called 'puzzle' or 'stack parking'. The allegation by Mr Kini is that this is wholly inadequate and is too narrow.

4. The Development Control and Promotion Regulation 2034 (“**DCPR**”) prescribes a minimum width for such parking. That, in his view, must be the width of the platform on which the car rests but not the width of the space in which the platform is fitted.

5. These are factual disputes. It is unclear to us what is being agitated here and whether it pertains to the affairs of the society, in which case there is another jurisdictionally competent forum with an equally effective alternative remedy, or whether the dispute is a private contractual dispute between the Petitioners and the developers in regard to what was promised and agreed.

6. The complaint is that the Maharashtra Housing and Area Development Authority (“**MHADA**”) has taken the stand that what has been provisioned by the developers is adequate and is in conformity with the DCPR. Mr Kini would have it that this return from MHADA is incorrect and that, by process of judicial interpretation we should define from where and to where these widths are to be ascertained.

7. That is not the remit of a Writ Court at all. On the face of it, it is difficult to say that the resultant order or direction by MHADA is arbitrary or unconscionable warranting interference by this Court. The Petitioners’ remedies lie elsewhere.

8. Mr Khandeparkar points out that there has been already an allotment of car parking space. Not all of them are of the same size.

Some are larger; others are smaller. The dispute is that Petitioners seek larger car parking spaces. That is also a private dispute.

9. We should not be misunderstood to have negated the Petitioners' contentions on merits. Indeed, we have not. We simply leave them open for being canvassed on merits in an appropriate proceeding in a jurisdictionally competent forum.

10. The Petition is rejected. There will be no order as to costs.

11. The other two matters are not on board. They are taken on board. We are not inclined to continue any order of status quo.

(Kamal Khata, J)

(G. S. Patel, J)