

Amol

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 925 OF 2024

Shakil Mohammed & Ors	...Petitioners
<i>Versus</i>	
State of Maharashtra & Ors	...Respondents

Mr M A Khan, *with Afnan Husain, for Petitioners.*
Mr Nishighandh Patil, AGP, *for Respondent-State.*
Ms K H Mastakar, *for Respondents Nos. 2 & 3.*
Mr Rakesh K Agrawal, *with Sandeep Nirban, for Respondent*
No. 6.

CORAM	M.S. Sonak & Kamal Khata, JJ.
DATED:	1 October 2024

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PC:-

1. The 6th Respondent in this case appears to be bent upon disobeying the order of this Court by insisting upon the inclusion of the following Clause U in the draft agreement:

“U. The Tenant hereby agrees and confirms that he had received Transit rent upto date of receipt of possession of Permanent Alternate Accommodation and the liability of the Developer to pay Transit Rent ceased forthwith with the Tenant receiving the vacant and peaceful possession of the Permanent Alternate Accommodation, more particularly described in the **Second Schedule** hereinunder written.”

2. The petitioners submit that the contemnors have willfully disobeyed the orders of this Court inter alia by not executing the PAAA agreements. The contemnors undertook to execute the agreements by 30 September 2024. However, the contemnors now insist that the tenants must sign the agreement with the above clause obviously so that they could escape the liability of paying arrears of transit rent until the tenants are placed in possession of the permanent alternate premises. This petition also alleges contempt for the failure to clear the arrears.

3. The tenants claim that the 6th Respondent (developer) owes each of the Petitioners Rs. 5.5 Lakhs in arrears of transit rent. By insisting that the Petitioners sign the Permanent Alternate Accommodation Agreement (“PAAA”) with this clause, the 6th Respondent obviously wants to escape any liability, if any, for payment of this amount. This is improper, to say the least.

4. The learned Counsel for the 6th Respondent offered to modify the above clause by substituting it with: *‘the tenants is disputing the quantum of transit rent and claiming escalation. The liability of the developer to pay transit rent ceases forthwith with the tenants receiving the vacant and peaceful possession of PAAA more particularly described in second schedule hereinunder written.’*

5. Since there is a dispute about transit rent up to the date the Petitioners are put in the possession of the Permanent Alternate Accommodation, the clause could have only

recorded that there exists such a dispute between the parties, and therefore, the parties are free to sort out these disputes by taking out the appropriate proceedings before the appropriate forum.

6. The learned Counsel for the 6th Respondent and the Petitioners, based on instructions from their parties, are agreeable for the substitution of Clause U with the following:

“The tenants have claims towards arrears of transit rent up to the date of the tenants being put in possession of Permanent Alternate Accommodation. These claims are, however, disputed by the Developer. Accordingly, the parties agree that the tenants can raise such a dispute before the appropriate forum and in appropriate proceedings. However, the tenants agree that the developer is not liable to pay any transit rent (not arrears) to the tenants from the date of being placed in peaceful possession of the Permanent Alternate Accommodation, i.e., from _____”

7. Accordingly, the parties agree to execute the PAAA within 14 days, i.e., 15 October 2024 from today, by including the above-substituted Clause U. In addition, it is already clarified that the execution of this agreement is without prejudice to the rights and contentions of both parties regarding any other disputes that they may have with each other.

8. We now post this matter on 18 October 2024 for directions to enable the parties to report the compliance.

9. The learned Counsel for the Petitioners points out that originally, this Petition was filed by 37 Petitioners. However, 27 Petitioners have already withdrawn the Petition. Therefore, this order will apply only to the remaining 10 Petitioners.

10. The parties must act on an authenticated copy of this order.

(Kamal Khata, J)

(M.S. Sonak, J)