



Pradnya

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 1832 OF 2024**

Sushila Kashinath Jadhav and ors. ...Petitioners
Versus
The State of Maharashtra and ors. ...Respondents

**WITH
WRIT PETITION NO. 3423 OF 2023**

Rajendra Keru Gaikwad and ors. ...Petitioners
Versus
The State of Maharashtra and ors. ...Respondents

**WITH
WRIT PETITION NO. 1787 OF 2024**

Chandrakant Shankar Kadam and ors. ...Petitioners
Versus
The State of Maharashtra and ors. ...Respondents

**WITH
WRIT PETITION NO. 2421 OF 2024**

Sachin Bhaguram Gamre and ors. ...Petitioners
Versus
The State of Maharashtra and ors. ...Respondents

Ms. Manasi Pilankar, *for the Petitioners in WP/1832/2024, WP/1787/2024.*

Mr. Prerak Sharma, *a/w Mr. Rohit P. Mahadik, Mr. Rushikesh Bhagat, Mr. Saurabh Mittal, Mr. Vaibhav Kulkarni, Mr. Farhan Shaikh, Mr. Nihir Dedhia i/b. Prerak Sharma, for the Petitioners in WP/3423/2023.*

Mr. Raman Kamble, *for the Petitioners in WP/2421/2024.*

Ms. R. M. Hajare, *for the Respondent-BMC in all Writ Petitions.*

Mr. P. G. Lad, *for the Respondent-MHADA in all Writ Petitions.*

Mr. Kevin Pereira, *i/b. Mr. Chinmay Acharya, for Respondent No.4-Developer in all Writ Petitions.*

Mr. Vijay Patil, *for the Respondent -SRA in WP/2421/2024.*

Mr. Jagdish Reddy, *for Respondent No.2 -SRA in WP/3423/2023 and for Respondent Nos.2 and 3 in WP/1832/2024, WP/1787/2024.*

Ms. Sheetal Malvankar, **AGP**, *for the Respondent-State in WP/1832/2024.*

Mr. Prashant Kamble, **AGP**, *for the Respondent-State in WP/3423/2023.*

Ms. Vrushali Kabare, **AGP**, *for the Respondent-State in WP/1787/2024.*

Ms. Poonam Mittal, **AGP**, *for the Respondent-State in WP/2421/2024.*

**CORAM M.S. Sonak &
 Kamal Khata, JJ.**

DATED: 25th June 2024

PC:-

1. Heard learned counsel for the parties.
2. The grievances in these Petitions are broadly as follows:-
 - (a) The non-compliance with terms and conditions subject to which notification under Section 3K of the Maharashtra Slum Areas

(Improvement, Clearance and Redevelopment) Act 1971 (“the Slum Act”) was issued in respect of the project in question ;

(b) The non-payment of the arrears of transit rent accommodation ;

(c) The alleged miserable status of the transit accommodation provided to some of the Petitioners.

3. The Petitioners seek the transit rent arrears and action against the Developer, now represented by Mr. Kevin Pereira, in all these Petitions. Learned counsel for the Petitioners submits that since the Developer has breached the terms and conditions subject to which the State Government issued the 3K notification and the Letter of Intent (LOIs), a case is, therefore, made out for revocation of this notification & LOI and possibly for replacement of this Developer.

4. In so far as the grievance of non-payment of transit accommodation rent is concerned, Mr Pereira, the learned counsel for the Developer, hands in a cheque to the learned counsel for the Petitioners regarding such arrears payable to one of the petitioners. Learned counsel for the Petitioners submits that the amount reflected in this cheque does not constitute the entire arrears due and payable to the Petitioners. However, learned counsel for the Petitioners is agreeable to accept this cheque without prejudice to their rights and contentions. Accordingly, learned counsel for the Petitioners may accept the amount now tendered without prejudice to all their rights and contentions, including that rents had to be paid at higher rates in terms of the SRA circular itself.

5. The Petitioners are granted liberty to raise their grievances before the Assistant Registrar of Co-operative Societies, who, according to Mr Jagdish Reddy, learned counsel for the SRA, is the prescribed authority to go into the issues of arrears of rents, etc. Suppose applications/representations are made by any of the Petitioners before the Assistant Registrar of Co-operative Societies in terms of Circular 153 issued by the SRA. In that case, this Assistant Registrar must expeditiously dispose of such applications/representations. In fact, we direct that such applications/representations must be disposed of within twelve weeks from their filing date. The Assistant Registrar will hear the Petitioners/Applicants and the Developers before making any orders. The orders will have to be communicated to these parties within this period of twelve weeks.

6. As regards the grievance of the status of the alternate accommodation provided to some of the Petitioners, again, it is open to such Petitioners to represent to SRA. The SRA is directed to consider such representation in accordance with the law and dispose of the same as expeditiously as possible. Again, the SRA must hear the Applicants/Petitioners and also inspect the premises which the Applicants/Petitioners presently occupy. The SRA must communicate its decision to the Applicants/Petitioners as expeditiously as possible and, in any case, within eight weeks from the receipt of such applications/representations.

7. As regards the grievance about the non-compliance with the terms and conditions subject to which the State Government issued Section 3K notification, the Petitioners are granted the liberty to represent the State Government. Such representation will have to be

addressed to the Secretary, Housing Department, State of Maharashtra. Mr. Reddy states that the Secretary would be the appropriate authority to consider and dispose of such complaints/representations. Suppose the Petitioners indeed make such representation, in that case, we request the Secretary (Housing Department) to dispose of the same as expeditiously as possible and, in any case, within twelve weeks from its receipt.

8. As far as the alleged non-compliance with the terms and conditions of the LOI is concerned, the petitioners are granted the liberty to represent to the SRA and /or the State Government. Such representation, if made, must be disposed of by the appropriate authority in accordance with the law and on its own merits within twelve weeks from its receipt.

9. All contentions of all parties are left open to be decided by the Assistant Registrar of Co-operative Societies and the Secretary (Housing Department) of the State of Maharashtra.

10. At this stage, it is not proper for this Court to discuss the rival contentions mainly because doing so would involve, at least prima facie, investigating the disputed questions of facts. Therefore, it is only appropriate that the prescribed authorities look into the Petitioners' grievances in the first instance and decide the matters according to the law. If the decisions aggrieve any parties, they are always at liberty to take out such proceedings as may be prescribed under the law to seek redressal of their grievances.

11. Before we part with this order, we record that the Petitioners have made a grievance that the Developer perpetually defaults in paying transit rents to the parties who have been displaced and are awaiting permanent accommodation. Learned counsel for the Petitioners pointed out that it is only when the Petitions are filed that the Developer makes some payments, and such payments are invariably partial and not complete. If this is correct, then this is a serious matter. If the Petitioners make complaints to the Assistant Registrar, the Assistant Registrar must go into such complaints and find out whether the Developer is a habitual defaulter and payments are made only after the complaints are received, or Petitions are filed.

12. The Developer is duty-bound to pay the transit rent regularly and fully. There should be no persistent defaults. The Developer should realise that parties have been displaced, and for them to survive, this transit rent has to be paid on time.

13. With the above directions and observations, we dispose of these Petitions. There shall be no order as to costs.

14. All concerned must act on an authenticated copy of this order.

(Kamal Khata, J)

(M.S. Sonak, J)