

Sumedh

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 567 OF 2024**

India Photo Studio & Ors	...Petitioners
<i>Versus</i>	
Maharashtra Housing & Area Development Authority & Ors	...Respondents

**WITH
INTERIM APPLICATION (L) NO. 7169 OF 2024**

Chandravatiben Nanavati & Anr	...Applicants
<i>In the matter between</i>	
India Photo Studio & Ors	...Petitioners
<i>Versus</i>	
Maharashtra Housing & Area Development Authority & Ors	...Respondents

**Mr Sharan Jagtiani, Senior Advocate, with Ramachandran N,
Chetan R Shah, Rohil Bandekar i/b Narayanan & Narayanan,
for the Petitioners.**

Mr Kamlesh Tiwari, for the Respondent-Developer.

Mr Dhiraj Chavan, for the Applicants.

Mr PG Lad, with Sayli Apte, for Respondent Nos 1 to 3.

**CORAM G.S. Patel &
 Kamal Khata, JJ.
DATED: 15th March 2024**

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1. A proposed settlement between the parties is threatened because there is a dispute about the open area which is said to be in occupancy of the 1st and 4th Petitioners. Both these Petitioners have from different Courts obtained decrees protecting their possession. There is no question of the Maharashtra Housing and Area Development Authority (“**MHADA**”) certifying any area less than that which is the subject matter of the decree. There is also no question of the developer saying that the open area is ‘likely’ to be property of a future society yet unformed. If there is a decree that protects possession, it is available to the parties in those suits against all claimants because the protection is against interference with that possession. It is perfectly acceptable for MHADA to certify the areas of all the Petitioners but this cannot be done without due regard to any decrees that have been passed and orders that have been obtained from a Civil Court of competent jurisdiction. There may be in addition other material to show exclusive possession. The MHADA certification is not related to anything except an occupancy. Once that occupancy is established, MHADA must certify the area that is under occupation. It may well be that an internal MHADA record may show a lesser area. But that will necessarily yield to a decree of a Court.

2. Subject to this, and on this basis, MHADA will proceed to certify. If required MHADA may in the course of their certification process make explicit and express reference to this order of the Court as the basis on which that certification is carried out.

3. Previous orders, if any, to continue until the next date.

4. Liberty to apply for a listing after the MHADA certification process is complete, but not before 26th April 2024.

(Kamal Khata, J)

(G. S. Patel, J)