

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION (LODGING) NO.32556 OF 2023

Mohammed Sajid Mohammed Sajjad
Shaikh

...Petitioner

Versus

The State of Maharashtra and Ors.

...Respondents

WITH

WRIT PETITION (LODGING) NO.32558 OF 2023

Shoeb Ahmed Khan

..Petitioner

Versus

The State of Maharashtra and Ors.

...Respondents

WITH

WRIT PETITION NO.1068 OF 2024

Zahid Akhtar Mohammed Bashir Ansari

...Petitioner

Versus

The State of Maharashtra and Ors.

...Respondents

WITH

WRIT PETITION NO.1143 OF 2024

Mohammed Shahid Mohammed Sajjad
Shaikh

...Petitioner

Versus

The State of Maharashtra and Ors.

...Respondents

WITH

WRIT PETITION NO.1173 OF 2024

Mohammed Shoeb Mohammed Ilyas
Ors.

...Petitioners

Versus

The State of Maharashtra and Ors.

...Respondents

WITH

WRIT PETITION NO.1200 OF 2024

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Ansari Mohammed Ilyas and Ors. ...Petitioners

Versus

The State of Maharashtra and Ors. ...Respondents

WITH

WRIT PETITION NO.1239 OF 2024

Ashfaque Ahmed Mohammed Imdad

Ansari ...Petitioner

Versus

The State of Maharashtra and Ors. ...Respondents

WITH

WRIT PETITION NO.1274 OF 2024

Shamshunnisa Mohammed Ayub ...Petitioner

Versus

The State of Maharashtra and Ors. ...Respondents

WITH

WRIT PETITION (LODGING) NO.13896 OF 2024

Mohammed Farid Mohammed Shafique

Qureshi ...Petitioner

Versus

The State of Maharashtra and Ors. ...Respondents

...

Mr. Jitendra Mishra *with Mr. Rupesh Dubey i/b. Ms Nilu Mishra for the Petitioners.*

Ms Vaishali Choudhari, *Addl. GP for Respondent Nos.1 to 3-State in WP/1068/2024.*

Ms Jaymala Ostwal, *Addl. GP for Respondent Nos.1 to 3-State in WP/1143/2024.*

Ms Jyoti Chavan, *Addl. GP for Respondent Nos.1 to 3-State in WP/1173/2024.*

Mr. Milind More, *Addl. GP with Mr. Suraj Gupte, AGP for Respondent Nos.1 to 3-State in WP/1200/2024.*

Mr. Vishal Thadani, *Addl. GP with Mr. Himanshu Takke, AGP for Respondent Nos.1 to 3-State in WP/1239/2024 and WPL/32558/2023.*

Mr. Mohit Jadhav, *Addl. GP for Respondent Nos.1 to 3-State WP/1274/2024.*

Mr. Abhay L. Patki, *Addl. GP with Mr. Vikram Parshurami, AGP for Respondent Nos.1 to 3-State in WPL/32556/2023 and WPL/13896/2024.*

Mr. S.B. Pawar *with Ms Lubna Shaikh i/b. M/s. K.P. Law Associates for Respondent No.4.*

Mr. Dhishan Kukreja *with Mr. Mohan Salian and Ms Harshita Kotian i/b. M/s. MGS Legal for Respondent Nos.5 & 6.*

CORAM : SANDEEP V. MARNE, J.

DATED : 9 MAY 2024.

PC:

1. Challenge in the present Petitions is to various orders issued by the Joint Sub-Registrar of Assurances, Mumbai City-5 (**Sub-Registrar**) adjudicating stamp duty in respect of various documents by which Permanent Alternate Accommodations (**PAA**) are shown to have been granted to the Petitioners by execution of agreements.

2. The impugned action is taken on the strength of a complaint received by the Sub-Registrar from a third party alleging fabrication of documents for showing Petitioners as tenants for the purpose of availing the exemption in payment of stamp duty. In majority of the Petitions, the allegation is that the Petitioners have failed to prove that they were tenants in respect of the old structures. My attention is drawn to the list

of tenants certified by MHADA, in which names of most of the Petitioners are reflected. In my view perusal of the orders passed by the Sub-Registrar does not show application of mind to various documents on record, particularly list of certified tenants issued by MHADA. In my view though there is alternate remedy of filing an appeal under Section 53 of the Maharashtra Stamp Act, 1958, it would be appropriate if the Sub-Registrar applies his mind to the documents submitted by the Petitioners afresh for the purpose of ascertaining whether Petitioners were tenants in respect of the old structures and whether the agreements are of allotment of PAAs. To enable the Sub-Registrar to do so, it is necessary to set aside the orders impugned in these petitions.

3. Accordingly, the petitions are disposed of by setting aside the orders passed by the Sub-Registrar and by remanding the proceedings. After taking into consideration all the documents relied upon by the Petitioners, the Sub-Registrar shall take decision in the matter by grant of opportunity of hearing to the Petitioners. The Petitioners would also be entitled to claim before the Sub-Registrar that the responsibility of payment of stamp duty is that of Developer. It is for the Sub-Registrar to take a decision on that contention.

4. With the above observations, the Writ Petitions are disposed of.

[SANDEEP V. MARNE, J.]