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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION NO. 247 OF 2024
IN
WRIT PETITION NO. 1900 OF 2022**

Nitin Jaswantraai Bhagat	...Applicant
<i>In the matter between</i>	
Nitin Jaswantraai Bhagat	...Petitioner
<i>Versus</i>	
State of Maharashtra and ors.	...Respondents

**ALONG WITH
WRIT PETITION NO.1900 OF 2022**

Nitin Jaswantraai Bhagat	...Petitioner
<i>Versus</i>	
State of Maharashtra and ors.	...Respondents

Mr Pankaj Shah, for the Applicant/Petitioner.
Ms Prachi Tatake, Addl. GP a/w Ms. Nazia Shaikh, AGP, for the
Respondent – State.
Ms Manisha Jagtap, for the Respondent Nos. 2, 4 and 5.
Mr Pratik K Shah, for Respondent No.6.

**CORAM M.S. Sonak &
 Kamal Khata, JJ.
DATED: 09th July 2024**

PC:-

INTERIM APPLICATION NO.247 OF 2024:-

1. Heard learned counsel for the parties.
2. This Petition has yet to be admitted. By the amendment, the Petitioner seeks to include certain additional averments based on the documents obtained by the Petitioner.
3. Accordingly, the Interim Application is allowed in terms of prayer clause (a).
4. Necessary amendments are to be carried out and served within two weeks from today.
5. The Respondents are granted two weeks to file their replies to the amended Petition if they choose to do so.
6. Interim Application is disposed of.

WRIT PETITION NO.1900 OF 2022 :-

7. This Petition seeks implementation of the High Power Committee (“HPC”) order dated 29th April 2021, by which the 6th Respondent has been directed to provide the Petitioner with an additional area of approximately 120 sq. ft.
8. The learned counsel for the 6th Respondent, on instructions, states that the 6th Respondent is ready and willing to comply with the HPC directions. However, he points out that by the time the HPC direction was issued, the construction of the building had advanced to about 25 floors. He, therefore, submits that it would not

be possible to provide this additional area on the ground floor itself. He says that this additional area will be provided on the 1st floor.

9. The learned counsel for the 6th Respondent refers to the affidavit of the 6th Respondent, including in particular paragraphs 15, 16 and 17 thereof, which read as follows:-

“15 In the hearing the Respondent No.6 had submitted that the building has been constructed upto 25th Floor and premises on the ground floor have already been allotted to various tenants. The Petitioner has been also allotted the commercial premises on the ground floor and if today Mhada Certifies the mezzanine floor approx.. 100 sq.ft. it will be very difficult or impossible to allot the extra space on the Ground Floor since all the space has been already utilized for permanent accommodation.

16 Pursuant to the direction of the High Power Committee and in compliance thereof, the Respondent No.6 have made provision of the Permanent Alternate Accommodation for the Petitioner being Shop No.22 of an area admeasuring 302.00 sq.ft on the Ground Floor and Commercial Premises of an area admeasuring 120.00 sq.ft on the First Floor of the new building and the Respondent is ready and willing to execute an Agreement in that behalf with the Petitioner.

17 Thus, it can be seen from the above that since the Petitioner was evicted under 95(a) of Mhada Act the Respondent No.6 have provided transit accommodation to the Petitioner, hence the Petitioner is not entitled for the transit rent and the Respondent No.6 is ready and willing to execute an Agreement for Permanent Alternate Accommodation with the

Petitioner. The Petitioner is only indulging in chance taking.”

10. The aforesaid paragraphs of the affidavit, along with the statement now made by the learned counsel for the 6th Respondent, based on instructions of the 6th Respondent, ally the apprehensions expressed on behalf of the Petitioner.

11. Learned counsel for the Petitioner now states that the Petitioner is agreeable to accept the additional area of 120 sq. ft on the first floor but submits that, as per his information, this area is in possession of some other party.

12. The learned counsel for the 6th Respondent submits that the area referred to in paragraph 16 of the affidavit quoted above will be handed over to the Petitioner no sooner than the occupancy certificate is received. Even this statement, made based on instructions from the 6th Respondent, is accepted as an undertaking to this Court.

13. By accepting the above statement/undertaking, we dispose of this Petition. No sooner the occupancy certificate is received, the 6th Respondent must allot and place the Petitioner in possession of the permanent alternate accommodation measuring 302.00 sq. ft on the ground floor and 120.00 sq. ft. on the first floor of the new building.

14. This Petition is now disposed of in the above terms. There shall be no orders for costs.

(Kamal Khata, J)

(M.S. Sonak, J)