

Sumedh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 656 OF 2024

Mohamed Riyaz Shaikh & Ors ...Petitioners

Versus

The Chief Officer, Mumbai Building Repairs and ...Respondents
Reconstruction Board & Ors

WITH
WRIT PETITION NO. 1137 OF 2024

Ismail a Petiwala ...Petitioner

Versus

Maharashtra Housing and Area Development ...Respondents
Authority & Ors

WITH
WRIT PETITION NO. 2168 OF 2024
WITH
CONTEMPT PETITION (L) NO. 17723 OF 2024
IN
WRIT PETITION NO. 2168 OF 2024

Abdeali Kanchwalla & Ors ...Petitioners

Versus

The Chief Officer, Mumbai Building Repairs and ...Respondents
Reconstruction Board & Ors

WITH
WRIT PETITION NO. 2835 OF 2024

Khan Babar Muzeeb & Ors ...Petitioners

Versus

The Chief Officer, Mumbai Building Repairs and ...Respondents
Reconstruction Board (MHADA) & Ors

WITH
WRIT PETITION NO. 3684 OF 2024

Zoeb Ahmendali Bootwala & Anr ...Petitionerss

Versus

The Chief Officer, Mumbai Building Repairs and ...Respondents
Reconstruction Board (MHADA) & Ors

WITH
WRIT PETITION (L) NO. 34500 OF 2023

Mirza Asgarali Ali Hasan & Ors ...Petitioners

Versus

The Chief Officer, Mumbai Building Repairs and ...Respondents
Reconstruction Board (MHADA) & Ors

WITH
WRIT PETITION (L) NO. 36010 OF 2023
WITH
INTERIM APPLICATION (L) NO. 24474 OF 2024
IN

WRIT PETITION (L) NO. 36010 OF 2023

Azmatullah Azizullah Shaikh ...Petitioner

Versus

Municipal Corporation of Greater Mumbai ...Respondent

Mr Zulfiqar Jariwala, with Sakshi Jain, i/b Jainwala Associates, for the Petitioners in WP/656/2024, WP/2168/2024, WP/2835/2024 & WPL/.

Mr Shobit Shukla, for the Petitioners in WP/1137/2024.

Mr Shakeeb Shaikh, with Abdul Bari Ansari, for Respondent Nos. 4 & 5.

Mr PG Lad, with Sayli Apte, for the Respondent-MHADA.

Ms Sujata L Puri, i/b SK Sonawane, for the Respondent-BMC.

Mr Jenish Danish Jain, with Uday Warunjikar, for the Respondent-MHADA in WP/2168/2024.

Ms Jyoti Chavan, Addl. GP, for the Respondent-State in WP/656/2024.

Mr Akshay Patkar, AGP, for the Respondent-State in WP/2168/2024.

Ms Rita Joshi, AGP, for the Respondent-State in WP/2835/2024.

Ms Mohit Jadhav, Addl. GP, with Usha Rati, AGP, for the Respondent-State in WP/3684/2024.

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

DATED: 27th August 2024

PC:-

1. On 3rd July 2024, we made the following order:

“1. Mr. Shaikh, learned counsel for Respondent Nos.4 and 5 seeks a week’s time to comply with the directions in our order dated 26th June 2024. He says that necessary undertaking would be filed and served in this Court on or before 10th July 2024.

2. Mr. Shaikh states that in the meanwhile 20% of the arrears have been paid to the Petitioners in Writ Petition No.2168 of 2024. Mr. Shaikh states that the payments for the current months will be regularly paid hereafter. Mr. Shaikh states that 20% of the arrears will also be paid to the Petitioners in Writ Petition No.2835 of 2024 within a week from today.

3. In the remaining Petitions as well, the Developer will have to file an affidavit indicating the status of arrears and the timeline within which such arrears would be cleared. Even this affidavit should be filed and served on or before 10th July 2024.

4. Place the matter on 19th July 2024 along with Writ Petition (L) No.20412 of 2024, Writ Petition (L) No.36010 of 2023 and Writ Petition (L) No.34500 of 2023”

2. When the matter was called out yesterday, the Advocate for the 4th and 5th Respondents was not present. Therefore, the matter was posted today. Mr Jariwala states that even notice of today’s hearing was given to the Advocate for the 4th and 5th Respondents.

3. The Advocate for 4th and 5th Respondents is absent even today. As we were dictating this order, Mr Abdul Ansari entered the Court and stated that he appeared for Respondents Nos. 4 and 5. He requested the Court to defer the proceedings because his counsel was on the way. Mr Shaikh, learned counsel for Respondents Nos. 4 and 5, has arrived in the Court. In our order dated 19 March 2024, we had to comment upon the similar conduct of the developers in this matter.

4. Today, learned counsel for the Petitioner points out that despite statements recorded by us in the order dated 3 July 2024, there is only partial compliance.

5. Based on the earlier orders made in this matter, we have shown more than sufficient indulgence to Respondents Nos. 4 and 5. Our directions have been openly flouted, as have the statements made on behalf of Respondents Nos. 4 and 5.

6. Accordingly, we direct Respondents Nos. 4 and 5 to clear all the arrears of transit rent latest by 3 September 2024. In addition, we issue notices to Kathawala Realtors LLP, Juzar Kathawala and Haseem Hatim Kathawala to show causes to why action under the Contempt of Courts Act should not been initiated against them for prima facie, repeatedly disregarding the Court's orders and statements made on their behalf before this Court for clearing the arrears or transit rent.

7. The notice is made returnable on 10 September 2024. Mr Shaikh and Mr Ansari, learned counsel appearing on behalf of the parties to whom the show cause notices have been issued, said that they will inform these parties about the notices and this order so they can file their replies and remain present in the Court on the next date. Juzar Kathawala and Haseem Hatim Kathawala are directed to remain personally present in the Court.

8. List the matter on 10 September 2024.

(Kamal Khata, J)

(M.S. Sonak, J)