

Ashwini

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.3558 OF 2024

Tagore Nagar Shree Ganesh Krupa CHSL ...Petitioner

Versus

State of Maharashtra & Ors ...Respondents

**Mr Pradeep Sancheti, Senior Advocate, with Raj Patel, i/b Tejas Shah, for
the Petitioner.**

**Ms Madhvi Ayyappan, with Chagan T, for Respondents Nos. 2 to
5-MHADA.**

Ms Sujata L Puri, for Respondent No. 6-BMC.

Mr Akshay Patil, with M Thorat, for Respondent No. 7.

**Ms Aditi Bhat, with Deekha Jani, i/b Jani and Parikh, for
Respondent No. 8.**

Ms Varsha Sawant, AGP, for the Respondent-State.

**CORAM: M.S. Sonak &
Kamal Khata, JJ**
DATED: 21st August 2024

ASHWINI
H
GAJAKOSH
Digitally
signed by
ASHWINI
H
GAJAKOSH
Date:
2024.08.23
10:11:11
+0530

PC:-

1. Heard learned Counsel for the parties.

2. The Petitioner seeks a writ of mandamus on Respondents Nos. 1 to 5 to remove the alleged illegal structure and/or alleged encroachments on the Petitioner's land to enable the Petitioner and/or 8th Respondent to take further steps in terms of the Development Agreement dated 21st January 2023 executed with the 8th Respondent.

3. At the outset, in this Petition, this Court cannot be concerned with private agreements between the Petitioner and the 8th Respondent. However, since there is an allegation that the 7th Respondent has carried out some illegal constructions, the MHADA, the statutory authority in this case, must look into the Petitioner's complaints and take action if there is merit in such complaints.

4. Ms Madhvi, the Counsel for MHADA, places on record a notice dated 26th March 2024 issued by the MHADA to the 7th Respondent regarding the alleged illegal constructions carried out by the 7th Respondent. She states that to date, the 7th Respondent has yet to respond to this notice, and the MHADA is prepared to dispose of this notice following law and after complying with principles of natural justice within the timeline that this Court could set out.

5. Ms Patil, learned Counsel for the 7th Respondent, states that the 7th Respondent has yet to receive such notice. However, now that such notice is served in the Court, the 7th Respondent will respond to such notice within two weeks from today.

6. Accordingly, we direct the MHADA to take its notice dated 26th March 2024 to its logical conclusion within six weeks from today.

MHADA and/or its competent officials should hear the Petitioner and 7th Respondent and pass the speaking order, which should be communicated to the parties within six weeks from today.

7. If the speaking order directs demolitions or removals, then such an order must also be executed expeditiously unless there is any legal impediment to doing so. The Petitioner and/or 7th Respondent, if aggrieved by the MHADA's order, have the liberty to challenge the same following law.

8. We clarify that we have not examined the rival contentions. Therefore, all contentions of Petitioner and 7th Respondent are kept open to be decided by MHADA/its officials in the first instance.

9. This Petition is disposed of in the above terms without any costs order.

10. All concerned to act on an authenticated copy of this order.

(Kamal Khata, J)

(M.S. Sonak, J)