

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 11741 OF 2025

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Jayaben Chunilal Shah & Anr.

Petitioners

Versus

Maharashtra Housing and Area
Development Authority & Ors.

Respondents

Mr. Huzefa Nasikwala a/w Farzana Rine, Idris Balasinorwala for Petitioners.

Mr. Jenish Jain i/b. Uday Warunjikar for Respondent No.1 MHADA.

Mr. Santosh Mali i/b. Komal Punjabi for Respondent No.4.

Mrs. Leena Shah a/w Dipen Furia i/b. Shah and Furia Associates for Respondent No.6.

**CORAM: G. S. KULKARNI &
AARTI SATHE, JJ.**

DATE: 18th September 2025

P.C.

1. This Petition is filed under Article 226 of the Constitution of India praying for the following reliefs:-

“a) Issue a writ of mandamus or writ in the nature of mandamus or any other appropriate writ, direction or order directing the Respondents i.e. MHADA, MBRR Board and Executive Engineer to comply with the report dated 23rd May 2025 (annexed as Exhibit M) of the Deputy Chief Engineer (Zone-II) MBRR Board directing Respondent no. 3 to accept the tenancy and occupancy of the Petitioners in the subject tenanted premises i.e. Shop no. 1 situated on the ground floor of the said Botawala Building, Raghavji Road, (84-86 August Kranti Marg), Mumbai 400036 bearing CS No.1/644, Malabar Cumballa Hill Division, "D" Ward, Building No. 82-

82 A, Ward No. D-3394, and issue revised certified tenanted list of the said Botawala Building vis-à-vis the Petitioners;

b) Issue a writ of mandamus or writ in the nature of mandamus or any other appropriate writ, direction or order directing the Respondents i.e. MHADA, MBRR Board and Executive Engineer to comply with the report dated 23rd May 2025 (annexed as Exhibit M) of the Deputy Chief Engineer (Zone-II) MBRR Board directing Respondent no. 3 to call for a report from MCGM for authorization of loft area in the said subject tenanted premises i.e. Shop no. 1 and separate proposal will be put up regarding acceptance of loft area;

c) Issue a writ of mandamus or writ in the nature of mandamus or any other appropriate writ, direction or order directing the Respondents i.e. MHADA, MBRR Board and Executive Engineer to require Respondent No. 5 to enter into Permanent Alternate Accommodation Agreement and Transit Agreement in accordance and in conformity as per the report dated 23rd May 2025 (annexed as Exhibit M) issued by the Deputy Chief Engineer (Zone-II) MBRR Board to Respondent No. 3;

d) Issue a writ of mandamus or writ in the nature of mandamus or any other appropriate writ, direction or order directing the Respondents i.e. MHADA, MBRR Board and Executive Engineer and MCGM to revoke the illegal conversion of Garage no. 7 and Garage no. 8 in the said subject property alongwith and all attendant consequences;

e) Issue a writ of prohibition or writ in the nature of prohibition and after examining the validity of action of the Respondents to initiate Section 95A of MHADA Act, 1976 against the tenants including the Petitioners pursuant to letter dated 5th August 2025 (Exhibit U hereto) be pleased to set aside and quash the same.

f) Issue an appropriate order to direct the Respondents to ensure that the Petitioners are provided a front-facing shop on

the ground floor of the redeveloped building in place of their existing premises;

g) Pending the hearing and final disposal of this petition:

i. Stay the MHADA NOCs dated 5th December 2023 and 6th June 2024 issued by the MHADA to Respondent No. 5;

ii. Stay the section 95-A proceedings initiated by Respondents MHADA vide letter dated 5th August 2025 against the tenants including the Petitioners;

iii. By an order and injunction of this Hon'ble Court, to restrain Respondent No. 5 from undertaking redevelopment of the said Botawala Building, Raghavji Road, (84-86 August Kranti Marg), Mumbai 400036 bearing CS No.1/644, Malabar Cumballa Hill Division, "D" Ward, Building No. 82-82 A, Ward No. D-3394;

h) For ad-interim and interim orders in terms of prayers e) i. to iii. hereinabove;

i) For the costs of the present Petition;

j) For such other orders, directions and reliefs as may be just proper and necessary in the nature and circumstances of this case.”

2. This Petition was heard on the earlier occasion. Today the learned Counsel for the parties are before the Court on instructions of their clients, who are present in Court stating that the proceedings can be disposed of in terms of the consent terms which are to the following effect:-

i. It is agreed between the parties that Respondent No.5 shall grant to the Petitioner Permanent Alternate Accommodation (PAA) of the area admeasuring

33.78 sq.metres (carpet area 363.60 sq.ft). It is also agreed that Respondent No.5 shall pay to the Petitioner transit rent at the rate of Rs. 250 per sq.ft. with the inflation of 5% of rent annually.

ii. The Petitioner has waived the rights to make a claim in regard to the loft.

iii. It is agreed between the parties that Respondent No.5 shall pay the Petitioner shifting charges of Rs 50,000/- per month.

iv. It is also agreed between the parties that Permanent Alternate Accommodation Agreement (PAAA) shall be entered between them within a period of two weeks from today.

v. It is agreed between the parties that the stamp duty and registration charges shall be borne by the Petitioner.

vi. The approved plan as agreed is annexed to the PAAA. In this view of the matter, the Petitioner has agreed to vacate the premises within a period of four weeks from the date on which PAAA shall be entered between the parties and registered.

vii. Respondent No.5 further agreed that the Petitioner may be granted the premises on the 1st floor which shall be demarcated in the plan annexed to the PAAA.

viii. It is also agreed between the parties that the agreement shall be entered jointly in the name of Petitioner No.1 Jayaben C. Shah and Kumarpal C. Shah, who shall be added as a tenant occupants.

ix. It is also agreed between the parties that the Small Causes Court proceedings in RAE Suit No. 727 of 2023 shall be withdrawn by Respondent No.5 immediately after the PAAA is entered and registered.

3. As a consequence of the aforesaid consensus between the parties, further adjudication of the proceedings is not called for. The Petition is accordingly disposed of in terms of the consent terms which are taken on record and marked 'X' for identification. No costs.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)