

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

**INTERIM APPLICATION NO. 6650 OF 2025
IN**

WRIT PETITION NO. 2737 OF 2018

Vishal Madhukar More ... Applicant

In the matter between

Vishal Madhukar More and ors. .. Petitioners

Versus

The State of Maharashtra and ors. Respondents

**ALONG WITH
WRIT PETITION NO. 2737 OF 2018**

Vishal Madhukar More and ors. .. Petitioners

Versus

The State of Maharashtra and ors. Respondents

**ALONG WITH
CIVIL APPLICATION NO. 941 OF 2018
IN**

WRIT PETITION NO. 2737 OF 2018

Kakade City Through Chairman/Secretary .. Applicant

Vs.

Vishal Madhukar More and ors. .. Respondents

**ALONG WITH
CIVIL APPLICATION NO. 1580 OF 2018
IN**

WRIT PETITION NO. 2737 OF 2018

Kopre Punarvasan Pratishthan .. Applicant

Vs.

Vishal Madhukar More and ors. .. Respondents

**ALONG WITH
INTERIM APPLICATION NO. 17983 OF 2023
IN**

WRIT PETITION NO. 2737 OF 2018

Dattatray Ramchandra Pawar and ors. .. Applicants
Vs.
The State of Maharashtra and ors. .. Respondents

**ALONG WITH
PUBLIC INTEREST LITIGATION NO. 135 OF 2009**

Shree Kamladevi Gramvikas
Pratishthan and ors. .. Petitioners
Vs.
The State of Maharashtra and ors. .. Respondents

**ALONG WITH
CRIMINAL PUBLIC INTEREST LITIGATION NO. 2 OF 2023**

New Kopre Punarvasan Kruti Foundation .. Petitioner
Vs.
The State of Maharashtra and ors. .. Respondents

**ALONG WITH
INTERIM APPLICATION NO. 1419 OF 2025
IN
CRIMINAL PUBLIC INTEREST LITIGATION NO. 2 OF 2023**

Kakade Constructions Company Private Limited .. Applicant
In the matter between
New Kopre Punarvasan Kruti Foundation .. Petitioner
Vs.
The State of Maharashtra and ors. .. Respondents

**ALONG WITH
WRIT PETITION NO. 12670 OF 2019**

Mr.Sunny D. Dhavade and ors. .. Petitioners
Vs.
The State of Maharashtra and ors. .. Respondents

**ALONG WITH
CONTEMPT PETITION NO. 427 OF 2018**

Vishal Madhukar Mores and ors. .. Petitioners
Vs.
The State of Maharashtra and ors. .. Respondents

Mr. Navroz Seervai, Senior Advocate a/w Mr. Karan Bhosale, Ms.Neha Bhosale, Ms. Laveena Tejawani, Mr.Abdul Basit Kudalkar i/b. Rahul Kate for Applicant in IA/1419/2025 and for Respondents No. 6, 7, 8 and 10 in CRPIL/2/2023.

Mr. Navroz Seervai, Senior Advocate a/w Ms. Neha Bhosale, Ms.Laveena Tejawani, Mr. Abdul Basit Kudalkar i/b Mr. Rahul Kate, for Respondent No.7 in PIL/135/2009, for Respondents No. 8 to 10 in WP/2737/2018 & for Respondent No. 8 in WP/12670/2019.

Mr. Prathamesh Bhargude a/w Mr. Sumit Sonare for Applicant in IA/6650/2025 and for petitioner in WP/2737/2018.

Mr.Sunip Kumar Jain, Senior Advocate a/w Mr. Prabhakar M. Jadhav for the Petitioners in PIL/135/2009 and WP/12670/2019.

Mr. Siddehs Shirke a/w Mr.Sumit Chaudhary i/b Mr. Akshay Deshmukh, for Applicant in CAW/941/2018 & CAW/1580/2018.

Mr. Sanjay Koban for petitioner in CRPIL/2/2023.

Mr. Ramdas Hake Patil, for Applicant in IA/17983/2023 in WP/2737/2018.

Mr. Vaibhav M. Parashurami i/b. Ms.Apoorva L. Thakre for Respondents 5 & 9 in CRPIL/2/2023.

Mr. Vaibhav M. Parashurami i/b Mr.Vikrant V. Parashurami for respondent No. 7 in WP/2737/2018 and CP/427/2018 and for respondent no. 8 in PIL/135/2009.

Mr. Someshwar Pawale Patil i/b. Mr. Parushottam Gopal Chavan V for Respondent no. 8 in PIL/135/2009

Mrs. Neha Bhide, GP a/w Mr. P. P. Kakade, Addl. GP with Mrs. G. R. Raghuwanshi, AGP for State-Respondent No. 1, 2 and 4 to 6 in WP/2737/2018 & in PIL- 135/2009 & in CP/427/2018, for Respondent No. 1,2 in CRPIL/2/2023, Respondent No. 1, 2, 5, 6 and 9 in WP/12670/2019.

Mrs. M. M. Deshmukh, APP for State in CRPIL/2/2023.

**CORAM : ALOK ARADHE, CJ &
M.S.KARNIK, J.**

DATE : 28th APRIL, 2025

P.C. :

INTERIM APPLICATION NO. 1419 OF 2025

1. This application is filed by Kakade Construction Company Private Limited for vacation of status quo order passed by this Court vide order dated 30/07/2024 thereby directing the applicant-developer to maintain status quo i.e. not to enter into any agreement with any third party nor execute any deed of conveyance in favour of the third party. The relevant portion of the order dated 30/07/2024 is necessary to be quoted which will provide brief overview of the matter.

“2.The Court in these petitions is primarily concerned with rehabilitation of the residents of village Kopare, who were shifted in the year 1942 on account of their land having be requisitioned for World War II by the British Government. In year 1951, the land in Kopare village was acquired by way of notification under the Land Acquisition Act, 1894 on 28th August 1951 for National Defence Academy and since then, rehabilitation process of these land-oustees is yet not complete.

3. For the purposes of rehabilitating the residents of village Kopare, the State Government, under the Land Acquisition Act, 1894, acquired certain land comprised in Survey Nos. 16, 18, 19, 51 and 53 at village Hingane, in respect of which, award was also declared on 6th January 1962. However, though the land for the purposes of rehabilitating the residents of Kopare village stood acquired in the year 1961, the rehabilitation has yet not been completed.

4. In the meantime, there have been certain developments, where a developer enters the scene and is said to have entered into development agreement with the residents of Kopare village subsequent to the settlement of the acquired land with the villagers under section 40 of the Maharashtra Land Revenue Code, 1966.

5. The Collector and the other revenue authorities are said to have conducted certain surveys for ascertaining the beneficiaries of rehabilitation and based on such surveys, certain correspondence between the revenue authorities and the State Government has made, but the actual beneficiaries and their number are yet not clear.

6. Accordingly, we call upon the Collector to constitute a team of two higher level revenue officers to gather the necessary information relating to chronological developments in the matter, which include ascertaining the families which were affected by 1942 requisition of the land of Kopare village as also the acquisition of land of the said village in the year 1951. The committee to be constituted by the Collector shall also ascertain, on the basis of documents and revenue records, as to what procedure was adopted for ascertaining the actual beneficiaries of rehabilitation over the land acquired in the year 1961, which is situated in village Hingane. Based on such information to be provided by the Committee to the Collector, an affidavit to be sworn in by none other than the Collector himself, shall be filed before the Court within eight weeks after serving a copy thereof on the learned counsel for the parties; reply thereto, if any, shall be filed by the parties by the next date of listing.

7. The said affidavit, as observed above, shall contain the details and supporting documents in relation to the identity and number of families which were affected by requisition of land in Kopare village in the year 1942 and thereafter by acquisition of land of the said village in the year 1951. The affidavit shall also contain the information relating to the process adopted by the revenue authorities for identifying the beneficiaries of rehabilitation to be made over the land which was acquired in the year 1961 which is situated at village Hingane. The affidavit shall, thus, contain all necessary details along with documents, revenue records and the correspondences made by the revenue officials at the district level with the State Government or any other Government authorities.

8. In the meantime, we direct that in respect of creation of third-party rights, status quo, as it exists today, shall be maintained by all concerned, specially by the developer. Maintenance of status quo as on today would mean that henceforth the developer will not enter into any agreement with any third-party, neither will it execute any deed of conveyance in any form with a third-party. This status quo will not be applicable so far as rehabilitation of 29 beneficiaries, which the developer has to undertake, is concerned. Rehabilitation of these 29 beneficiaries will be completed at the earliest by the developer.

9. We also clarify that if any agreement already entered into between the developer and a third-party did not provide handing over of possession of residential/commercial premises, the possession shall not be delivered in such case.

Learned Senior Advocate Shri Navroz Seervai appearing for the applicant-developer placed the following facts for our consideration.

2. In 1942 the residents of village Kopare were shifted on account of their land having been requisitioned for World War II by the British Government. The land in Kopare village was acquired by way of a notification dated 28/08/1951 under the Land Acquisition Act, 1894 for the National Defence Academy. The State Government on 06/01/1962 acquired certain lands comprised in Survey Nos. 16, 18, 19, 51 and 53 at village Hingane for the purposes of rehabilitating the residents of Kopare under the Land Acquisition Act, 1894.

3. The applicant entered into development agreement as a Developer with the residents of Kopare village subsequent to the settlement of the acquired land with the villagers under Section 40 of the Maharashtra Land Revenue Code, 1966. The Sub-Divisional Office, Pune, issued an Award List dated 09/02/2002 identifying 358 Project Affected Persons ('PAP'). Between the period 2002 to 2009, the applicant completed 90% of the rehabilitation as per the Award List in view of the permissions granted by various government authorities to the Applicant-developer.

4. PIL No. 135 of 2009 was filed regarding the incomplete rehabilitation process. One Mr. Dilip More (one of the beneficiaries) filed private criminal complaint MA No.3472 of 2017 before the Judicial Magistrate First Class, Shivajinagar, Pune. JMFC directed the Warje Malwadi Police Station to file an FIR against the applicant-developer and investigate the matter.

5. Writ Petition No. 2737 of 2018 and Contempt Petition No. 427 of 2018 was filed against the applicant-developer. Out of the 358 PAPs, 8 PAPs opted out from the rehabilitation scheme and were handed over their respective plots by the government. Out of remaining 350 PAPs, the rehabilitation of 315 PAPs completed. Units for remaining 29 PAPs are under construction in Skylark Project developed by sister concern company of the applicant-developer. Registered agreements have also been executed with these 29 PAPs. All the necessary approvals and permission for the Skylark Project have been received from the various government authorities. The applicant-developer on 27/09/2021 applied for an extension of three years for the rehabilitation of the remaining 29 PAPs to the Collector. Out of the remaining 35 PAPs, 06 units for 6 PAPs are ready for possession but the 6 PAPs are not taking the possession of the same. The Collector vide letter dated 22/04/2022 granted extension till 21/04/2025.

6. Criminal Public Interest Litigation No. 2 of 2023 was filed, highlighting concerns over the rehabilitation process. This Court passed order dated 30/07/2024 to maintain status quo of which modification is requested for by the applicant. Learned Senior Advocate for the applicant submitted that the petitioners in Criminal PIL are issuing public notices and putting up hoardings on the Project site to misguide general public including 29 PAPs.

7. The Collector filed reply on 03/10/2024 as directed by this Court. The Collector's Reply indicates that no discrepancy or illegality in the rehabilitation of the ousted villagers of Kopare and that the applicant-developer has duly fulfilled his obligation by rehabilitating 315 PAPs out of the eligible 358 PAPs.

8. Learned Senior Advocate submitted that Warje Malwadi Police Station filed C- Summary Report before JMFC stating that there is no fraud or misrepresentation by applicant-developer in rehabilitation process. The petitioners in PILs and Writ Petitions filed frivolous litigations to stall applicant-developer from the completion of the rehabilitation project. As a result of the continuance of the status quo, the construction of Skylark project is affected as the applicant-developer

is facing financial difficulties in completing the project and rehabilitating the 29 PAPs. Learned Senior Advocate submitted that 29 PAPs are aware of the fact that their rehabilitation is pending due to the pendency of writs petition and PILs and not due to default of the applicant-developer.

9. We have heard learned Senior Advocate Shri Sen and learned advocate Shri Bhargude appearing for some of the beneficiaries. Learned Senior Advocate as well as Shri Bhargude vehemently opposed the application. It is submitted that the buildings are being constructed by the applicant-developer for their personal profits at the detriment of the beneficiaries. It is submitted that beneficiaries are not being given their rightful dues and the applicant-developer has acted in complete breach of development agreement. It is submitted that the beneficiaries are short changed and if the applicant-developer is allowed to construct the building and sell the flats, the beneficiaries will be deprived of the benefits to which they are entitled to in terms of the development agreement. It is submitted that the enquiry made by the District Collector, Pune does not reflect the correct state of affairs and it is necessary for the Collector to re-examine the list of the beneficiaries who are much more than the applicant-developer claims to have rehabilitated.

It is submitted that if status quo granted by this Court is vacated or modified, it will cause serious prejudice to the rights of the beneficiaries in the pending writ petition.

10. *Prima facie*, we find that there is some substance in the serious challenge made to the locus of the petitioners. The affidavit in reply of the Collector reveals that the PAPs are rehabilitated in accordance with the scheme under which the applicant-developer was permitted to develop the project. There are some beneficiaries who have not opted for the rehabilitated units offered by the applicant-developer in the light of the dispute they have with the applicant-developer. *Prima facie*, we find that the predecessors of the present beneficiaries/petitioners, who were actually displaced as a result of the project were rehabilitated. Many of the petitioners who claim to be the successors of interest of PAPs now claim rehabilitation seeking enforcement of their rights under the development agreement. However, as the writ petition and PIL is pending which we propose to hear finally, to protect the interest of the petitioners, we had called upon the applicant-developer to state whether the applicant-developer is willing to protect the interest of the 29 PAPs and also undertake to keep some flats vacant in the building to be constructed to secure the interest of the beneficiaries.

11. One Mr. Sanjay Dattatray Kakade who claims to be the authorised signatory on behalf of the applicant-developer – Kakade Construction Company Private Limited has filed an affidavit in compliance of the order dated 23/04/2025 passed by this Court. The relevant portion of the affidavit-cum-undertaking reads thus:

“2. The Order of status quo dated 30th July 2024 ("Status Quo Order") was passed in the Group matters, whereby inter alia it was directed that the developer will not enter into any agreement with any third party. However, this direction was not applicable so far as 29 beneficiaries are concerned, who are to be rehabilitated.

3. It is submitted that the total PAPs that were to be rehabilitated were 350, out of which 315 PAPs were rehabilitated till the year 2009. Additionally, 6 PAPs were offered possession repeatedly but they have refused/ not taken possession. The remainder 29 PAPs are to be rehabilitated in an under construction building known as Le Skylark Project ("Skylark Project"). The Status Quo Order is sought to be modified, so as to complete the construction of the Skylark Project. For modification of the Status Quo Order, the I.A. no. 1419 of 2025 in Criminal PIL no. 2 of 2023 was filed by Kakade Construction Company Private Limited ("Applicant").

4. The 29 project affected persons (PAPs) have executed independent registered agreements, under which they have agreed to be rehabilitated in the Skylark Project. The Skylark Project consists of two wings (each of ground + parking + 14 floors) having 224 units, including free sale component and units earmarked for rehabilitation of 29 Project Affected Persons ("PAPs"). Out of these 224 units, 55 units have already been allotted to the 29 PAPs by entering into registered agreements with them (in compliance of the obligation on the Applicant to provide 30% constructed area to each PAP as per the Order of the Collector Pune dated 5th September 2002). Further, 50 units of the free sale component have been sold to third parties through registered agreements. Hence, there are 119 units presently vacant in the Skylark Project. To be able to pay for the construction cost, the Applicant will require to sell 99 units. Therefore, this would leave the Applicant with 20 units in Skylark Project ("20 Units"). The area of 20 Units aggregates to approximately 22,000 sq. ft.

5. The total area of the plots allotted to 350 PAPs aggregated to 76,697.5 sq.mts. The 350 PAPs under registered agreements have received 3,65,636.05 sq.ft. Therefore, it is submitted that there is no shortfall in the area that the Applicant was to give to the 350 PAPs.

6. In view of the above, the Applicant without prejudice to its rights and contentions, undertakes not to create any third-party rights with respect to the remaining 20 Units of the Skylark Project till the final hearing and disposal of the Group matters and/or until further orders are passed therein”

12. Under the facts and circumstance of the case, we find the undertaking of the applicant-developer is reasonable which protects the interest of the beneficiaries. Learned counsel Shri Bhargude has some reservations about the affidavit-cum-undertaking filed by Shri Sanjay Dattatray Kakade, as according to him, the construction and the sale of the units is to be done by some other entity. There is no reason to doubt the affidavit-cum-undertaking as Shri Navroz Seervai, learned Senior Advocate informed this Court on instructions that the construction in terms of the undertaking is to be carried out by Kakade Constructions Company Private Limited and that Shri Sanjay Dattatray Kakade undertakes full responsibility for the statements made in the affidavit-cum-undertaking and the consequences thereof for any breach. Needless to state that any construction made or activity undertaken by any entity other than the applicant - Kakade Constructions Company Private Limited will be viewed as a breach of this affidavit-cum-undertaking made to this Court and the consequences will follow.

13. The application is therefore allowed to the limited extent as stated

in terms of the affidavit-cum-undertaking dated 25/04/2025 filed in Interim Application No. 1419 of 2025. The order of status quo dated 30/07/2024 is modified to the limited extent indicated hereinabove. Rest of the order of the status quo in terms of the order dated 30/07/2024 shall remain intact. The Interim Application No. 1419 of 2025 is disposed of in the above terms.

14. List the matter for further consideration on 11/07/2025.

(M.S.KARNIK, J.)

(CHIEF JUSTICE)