



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1397 OF 2024

Ahmed Hussain, son of Majibullah Khan & Anr.

... Petitioners

Vs.

Slum Rehabilitation Authority & Ors.

... Respondents

Mr. Yousuf Khan a/w. Mr. Vijendra Kumar Rai, Mr. Prathamesh Kiwalkar i/b. Khan & Khan Law Firm for the petitioners.

Dr. Milind Sathe, Senior Advocate a/w. Mr. Yogesh Patil, Ms. Ravleen Sabharwal, Mr. Abhijit Patil, Mr. Somesh Pathak i/b. R.S. Justicia Law Chambers for respondent no. 1-SRA.

Mr. Jagdish G. Aradwad (Reddy) for respondent no. 2-AGRC.

Mr. Madhur Surana for respondent no. 5.

Mr. Kewal Ahuja for respondent no. 8.

Mr. Milind More, Addl. G.P. for the State.

Mr. Shriram Kulkarni i/b. Afrin Khan for the occupants of building no. 2/Intervenor.

Ms. Vaishali Lambhate, Dy. Collector, Mr. D.B. Patil, E.E., Ms. Sandhya Bawankale, A.R., Mr. Aashish Chaudhari, A.E., Mr. Amit Parshette, S.E., Mr. Sachin Hiwalkar, L.A., Tah. Prashati Mane present.

CORAM: G. S. KULKARNI &
ARIF S. DOCTOR, JJ.

DATED: 8 AUGUST, 2025

Oral Judgment (Per G.S. Kulkarni, J.)

1. This petition under Article 226 of the Constitution of India is filed praying for the following relief, which reads thus:

“A) That, this Hon’ble Court be pleased to issue Writ of Mandamus or any other appropriate Writ, Order exercising power under Article 226 of the Constitution of India, 1950, by directing Respondent-SRA to implement the order dated 16.03.2019 and 21.09.2019 in an expeditious and time bound manner by allotting physical possession of alternate permanent Commercial and residential Accommodation to petitioner nos. 1 and 2 respectively with all the amenities and facilities as per the law.”

2. There is no dispute whatsoever on the entitlement of the petitioners for a permanent alternate accommodation. The petitioners admittedly are beneficiaries of such allotment. Considering such contentions as urged on behalf of the parties, on 21 July 2025 we had passed the following order:

“1. Learned counsel for the petitioners has contended that the Apex Grievance Redressal Committee (AGRC) by an order in question dated 16 March 2019 has held that the petitioners would be entitled to a commercial tenement on the ground floor and that such order has not been complied for almost six months as observed in the order dated 21 September 2019. He has stated that there are several illegalities inasmuch as many tenements were illegally allotted.

2. The petitioners are senior citizens. We direct the Chief Officer of SRA to put the petitioners in possession of the ground floor tenement and if the same is not available, it can be done by evicting in accordance with law, any illegal allottee and more particularly who has come in occupation of a tenement after the order dated 16 March 2019 was passed by AGRC. Let the correct position in that regard be informed to the Court. However, this would not preclude the SRA to put the petitioners in possession of any available tenement. The petitioners are directed to approach the Chief Officer of SRA on Thursday, i.e., 24 July 2025 at 3 p.m. when further appropriate steps shall be taken.

3. List the proceeding on **28 July 2025 (H.O.B.)**

4. We may also observe that if the petitioners are entitled to any transit rent, the Chief Officer of SRA shall consider such issue and inform the Court of the amounts on this count, which are required to be paid. Let a statement to this effect be made before this Court on the adjourned date of hearing.”

3. On the backdrop of the aforesaid order, the proceedings were listed before us subsequently when a detailed order came to be passed by us on 28 July 2025, which reads thus:

“1. As petitioner No.1 and petitioner No.2 are entitled for allotment of tenements (permanent alternate accommodation) under Slum Rehabilitation Scheme as held by the Apex Grievance Redressal Committee (for short "AGRC") and that they were deprived of the possession of their tenements, on 21 July, 2025 we had passed an order

directing the Chief Officer of the SRA to put the petitioners No.1 and 2 in possession in the manner as observed in paragraph 2 of the said order. We had also observed that for six years order dated 21 September, 2019 passed by the AGRC has not been implemented. There is also an issue of non payment of the transit rent.

2. On the backdrop of the said order, today the proceedings are listed before us. In the morning session, we passed an order posting the matter at 3.00 p.m to enable Mr. Patil, learned Senior Counsel for respondent No.1-SRA to take instructions as to why the petitioners were not put in possession, failing which, there would be no alternative but to call the Chief Officer of the SRA to remain present in the Court.

3. Later in the second session, when the proceedings are called out, Mr. Patil, on instructions, submits that two tenements are in illegal occupation of one Mr. Mohammed Umar alias Mohammed who occupies tenement No.4 in building No.11 as entitled to be allotted to petitioner No.1. He states that one Mohammed alias Mohammed Amin Usman Gani Khan is occupying tenement No.104 which is a residential tenement in building No.3 being entitled/allotted to petitioner No.2. He has placed on record two notices which were issued by the Designated Officer under the provisions of Section 33 of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (for short "Slum Act") to these illegal occupants. The same are received and acknowledged by these persons. They have been called upon to vacate the said tenements within seven days of the receipt of the said notices which were received by them.

4. Names of these illegal occupants being made aware and placed on record, learned Counsel for the petitioners seeks leave to amend to implead these two persons as party respondents. Leave to amend. Let the amendment be carried out by tomorrow. Amended copy of the petition be served on the said respondents. Let affidavit of service be also placed on record. Service of the petition be effected by the Advocate for the petitioners including copy of this order.

5. We direct the Designated Officer of the SRA to take appropriate steps as the law mandates under the notices dated 28th July, 2025 issued under section 33 of the Slum Act against both the said illegal occupants. Awaiting such proceedings and the action to be taken, we adjourn the proceedings to 6th August, 2025 so that further development would be informed to the Court.

6. Mr. Patil has also expressed concern that in the event, added respondents/illegal occupants do not vacate the premises within seven days, the SRA be permitted to take coercive action with the assistance of the Police which shall be made available by the Officer In-charge of the local Police Station. We permit the Designated Officer to avail of such Police assistance. The officer in-charge of the concerned Police Station

shall act on the authenticated copy of this order and shall provide appropriate Police protection to enable the Designated Officer to execute the notices dated 28th July, 2025 issued under section 33 of the Slum Act.

7. We also direct the Chief Officer of the SRA to place on record an affidavit as to how and in what manner such illegal occupants are inducted into the SRA tenements and as to how many such tenements are occupied by such illegal occupants in the slum project in question. Let these details be provided along with the names of those persons who are illegally allotted such tenements and as also what steps the Chief Officer has taken to recover possession from such illegal occupants. In the event, we find that there is brazen illegal occupancy of the slum tenements and the legitimate allottees are not granted the benefit, we would be required to delve on such issues and pass serious orders. The present case, in our opinion, is an eye opener. We would, therefore, direct Chief Officer to take all possible actions as law would mandate without the Court requiring to pass further orders, on such issues and the same be placed on an affidavit to be filed only by the Chief Officer.

8. Stand over to 6th August, 2025. High on Board.”

4. As clearly seen from the observations as made by the Court, the project in question, which is of 13 buildings, was undertaken by a company known as "HDIL", which is stated to be in liquidation. It is stated that such developer had indulged in several illegalities. Out of 13 buildings, admittedly building No. R-2 as constructed was wholly unauthorized, as no Commencement Certificate was granted, to which we will make a reference little later. However, the fact remains that the legality as noted by this Court in paragraph 7 of the aforesaid order, was observed to be an eye opener. The proceedings accordingly were adjourned for further appropriate orders to be passed, when on 6 August 2025 considering the serious state of affairs, the following orders was required to be passed by the Court:

“1. Stand over to 8 August 2025. We direct the Chief Executive Officer of SRA to visit the buildings in question and place on record the

photographs of all these buildings and more particularly, the building which has been stated to be constructed illegally and occupied wherein a hotel business is being conducted that too in a place like Bandra-Kurla Complex. This really shocks our conscience, in as much as firstly, the scheme in question is a SRA scheme that too in a prime locality and in such scheme there is a whole building which has been illegally constructed, and above all it is commercially exploited in such manner.

2. In such circumstances, the Chief Officer is under an obligation to visit the site and explain to the Court on such illegalities as to who are these occupants, why no action was taken and as to how this building could be illegally constructed under the slum scheme. We shall pass further appropriate orders on such issues.

3. The Chief Executive Officer shall avail of the police protection which be provided by the Officer in charge of the local Police Station.

4. Let this exercise be done by Tomorrow i.e. 7 August 2025 at 3.00 p.m., as we want the Chief Executive Officer to examine the ground reality, considering the grievance of the petitioners that all such illegalities is happening with complete knowledge and/or tacit approval of the Slum Rehabilitation Authority and its officers.

5. An affidavit along with the photographs be placed on record.

6. The petitioner and/or his representative is permitted to also join the visit so as to point out the illegalities in the concerned buildings. The petitioner is also permitted to take photographs and during such visit, and would equally be entitled to the police protection, which be provided by the officer in charge of the concerned police station.

7. Stand over to 8 August 2025.”

5. In pursuance to the aforesaid order, Dr. Mahendra Kalyankar, Chief Executive officer of the Slum Rehabilitation Authority has placed on record an affidavit dated 7 August 2025. The affidavit has recorded the observations as noted in the visit of the said officer. He has also noted the substantial illegalities in the illegal occupation of the different slum rehabilitation tenements and the assurance of the Chief Executive Officer is that appropriate action will be taken. Also there is a statement in regard to the action of demolition now being taken in

respect of building No. R-2, which as observed by us is totally unauthorized and it should not have been occupied, considering the settled principles of law as laid down by the Supreme Court that unauthorized construction can never be sustained (see: **M. I. Builders Pvt. Ltd. Vs. Radhey Shyam**¹, **Friends Colony Development Committee Vs. State of Orissa & Ors.**², **Dipak Kumar Mukherjee Vs. Kolkata Municipal Corporation & Ors.**³, **Supertech Ltd. Vs. Emerald Court Owner Resident Welfare Association & Ors.**⁴, and **Kerala State Coastal Zone Management Authority Vs. Maradu Municipality & Ors.**⁵ and the decision of this Court in High Court on its own motion (**In the matter of Jilani Building at Bhiwandi) Vs. Bhiwandi Nizampur Municipal Corporation & Ors.**⁶)

6. We may also observe that once a building is rank unauthorized, there is no question of regularization of such buildings and in fact we were surprised to note that the Chief Executive Officer had called upon the developer to regularize. However, such regularization of rank unauthorized construction and that too of this magnitude is wholly impermissible. The law in this regard is well settled. In a recent decision in **Feroz Talukdar Khan vs. The Municipal Commissioner, Thane Municipal Corporation & Anr.**⁷, this Court considering several decisions and more importantly a recent decision of the Supreme Court in **Khalil Ahmed**

1 (1999) 6 SCC 464

2 (2004) 8 SCC 733

3 (2013) 5 SCC 336

4 (2021) 10 SCC 1

5 Civil Appeal Nos. 4784-4785 of 2019, decided on 8 May, 2019

6 2022 SCC OnLine Bom 386

7 2025 SCC OnLine Bom 2473

Nawab Ali Subedar vs Municipal Corporation For Greater Mumbai, SLP No. 406

of 2019 dated 03.01.2025, observed thus:

16. It is no rule of law that a person with impunity would breach law by undertaking such defiant illegal construction and thereafter take recourse to regularization. Regularization can never be of an illegal and/or of rank unauthorized construction. It can be considered by the planning authority of some minor deviation in the construction which would not disturb the sanctity of the permitted legal construction made as per the sanctioned plans and can be effected only on genuine and bonafide reasons. If we accept a proposition that a planning authority having not taken an action and/or permitted such unauthorized construction to take place, and thereafter it considers an application to regularize the same, this would amount to recognizing a regime unknown to the provisions of law opposed to the settled constitutional principles, as also to the settled principles and norms on municipal planning. According any legitimacy to such actions would create a situation of absolute lawlessness of unauthorized and illegal constructions, being permitted to come up, with the municipal/planning authorities doing nothing to arrest unauthorized construction and subsequently considering regularizing such constructions. This would also evolve a regime of total lawlessness and recognize illegality of the persons who have resources to undertake such construction without obtaining any permission from the planning authorities, as per the requirements of law. This is a case where no construction permission was applied for.

17. We may refer to the decision of the Supreme Court in Mahendra Baburao Mahadik v. Subhash Krishna Kanitkar rendered on the context of the powers of regularization as conferred under the Maharashtra Regional Town Planning Act, 1966 (for short “MRTP Act”). The Supreme Court has held that the municipal authority did not have any jurisdiction to direct regularization of unauthorized constructions and that such power was confined to the provisions of the Act and no action could be taken for regularization of unauthorized constructions.

“37. The Municipal Council is a ‘local authority’ as well as Planning Authority within the meaning of the provisions of Sections 2(15) and 2(19) of the MRTP Act.

38. The Municipal Council being a creature of statute was bound to carry out its functions within the four-corners thereof. Being a statutory authority, it was required to follow the rules scrupulously. Concededly, the Municipal Council is not possessed of any statutory power to regularize unauthorized constructions. Its power is confined to compounding the offences in certain cases. Moreover, even development charges could not be recovered from the appellant in respect of unauthorized constructions in terms of

Section 124E(2) of the MRTTP Act.” (emphasis supplied)

18. In *Kaalkaa Real Estates Pvt. Ltd. v. Municipal Corporation of Greater Mumbai*, in the context of regularization of unauthorized constructions, this Court reiterated the principles that it cannot be said as a matter of general rule an unauthorized construction could be regularized. It was also observed that the legislature has not intended that the provisions in the planning laws including building by-laws and regulations relating to health, safety, fire safety, safety of the inhabitants of the buildings and the neighborhood have to be ignored or brushed aside in undertaking legitimate constructions. It was observed that the Supreme Court has cautioned against liberal use of the power of regularization and retention of unauthorized works and buildings and that the Supreme Court has warned that the authorities must take into consideration public safety, health, protection of environment and ill effects of unregulated and uncontrolled construction in cities and towns. It was also held that retention of unauthorized works and constructions cannot result in wholesale condonation and relaxation or exemption from the building regulations and by-laws or else there will be a chaos and break down of the rule of law. It was further held that by imposition of fine and charging compounding fees, large scale unauthorized constructions if are regularized, would encourage builders and developers, as also others having interest in the development activities, to openly violate laws, as such persons would always proceed on the basis that the building regulations can be breached with impunity, and all that they would be visited with, is high compounding fees. It was observed that this is not the intention of the legislature that in making the regularization provisions under the MRTTP Act, including the penal provisions (referring to Sections 52 and 53 thereof) which were enacted with a defined object and purpose to discourage unauthorized and illegal development and also punish the wrong doers. The Court further observed that the exercise of the discretionary powers of regularization must not result in a licence to break the planning laws. It was held that an individual's interest in a property and his right to enjoy the same, is subject to larger public good and purpose and that such rights are required to be balanced with the requirements of the society and such rights can never be absolute. For such reasons, the Planning Authority cannot, as a matter of rule, regularize unauthorized constructions by allowing the wrong doer to achieve condonation of the illegality.

19. In a recent decision of the Supreme Court in *Rajendra Kumar Barjatya v. U.P. Avas Evam Vikas Parishad*, the Supreme Court has reiterated the following principles in the context of illegal and unauthorized constructions. “

"20. In the ultimate analysis, we are of the opinion that construction(s) put up in violation of or deviation from the

building plan approved by the local authority and the constructions which are audaciously put up without any building planning approval, cannot be encouraged. Each and every construction must be made scrupulously following and strictly adhering to the Rules. In the event of any violation being brought to the notice of the Courts, it has to be curtailed with iron hands and any lenience afforded to them would amount to showing misplaced sympathy. Delay in directing rectification of illegalities, administrative failure, regulatory inefficiency, cost of construction and investment, negligence and laxity on the part of the authorities concerned in performing their obligation(s) under the Act, cannot be used as a shield to defend action taken against the illegal/unauthorized constructions. That apart, the State Governments often seek to enrich themselves through the process of regularisation by condoning/ratifying the violations and illegalities. The State is unmindful that this gain is insignificant compared to the long-term damage it causes to the orderly urban development and irreversible adverse impact on the environment. Hence, regularization schemes must be brought out only in exceptional circumstances and as a onetime measure for residential houses after a detailed survey and considering the nature of land, fertility, usage, impact on the environment, availability and distribution of resources, proximity to water bodies/rivers and larger public interest. Unauthorised constructions, apart from posing a threat to the life of the occupants and the citizens living nearby, also have an effect on resources like electricity, ground water and access to roads, which are primarily designed to be made available in orderly development and authorized activities. Master plan or the zonal development cannot be just individual centric but also must be devised keeping in mind the larger interest of the public and the environment. Unless the administration is streamlined and the persons entrusted with the implementation of the act are held accountable for their failure in performing statutory obligations, violations of this nature would go unchecked and become more rampant. If the officials are let scot-free, they will be emboldened and would continue to turn a nelson's eye to all the illegalities resulting in derailment of all planned projects and pollution, disorderly traffic, security risks, etc.”

20. In a recent decision of the Supreme Court in *Kaniz Ahmed v. Sabuddin* deprecating regularization of illegal construction, the Supreme Court made the following observations:

“6. The learned counsel appearing for the petitioner would submit that her client be given one chance to pray for regularisation of the unauthorised construction. We do not find any merit in such submission. A person who has no regards for the law cannot be

permitted to pray for regularisation after putting up unauthorised construction of two floors. This has something to do with the rule of law. Unauthorised construction has to be demolished. There is no way out. Judicial discretion would be guided by expediency. Courts are not free from statutory fetters. Justice is to be rendered in accordance with law. We are at pains to observe that the aforesaid aspect has not been kept in mind by many State Governments while enacting Regularisation of Unauthorized Development Act based on payment of impact fees.

7. Thus, the Courts must adopt a strict approach while dealing with cases of illegal construction and should not readily engage themselves in judicial regularisation of buildings erected without requisite permissions of the competent authority. The need for maintaining such a firm stance emanates not only from inviolable duty cast upon the Courts to uphold the rule of law, rather such judicial restraint gains more force in order to facilitate the well-being of all concerned. The law ought not to come to rescue of those who flout its rigours as allowing the same might result in flourishing the culture of impunity. Put otherwise, if the law were to protect the ones who endeavour to disregard it, the same would lead to undermine the deterrent effect of laws, which is the cornerstone of a just and orderly society. [See : Ashok Malhotra v. Municipal Corporation of Delhi, W.P. (c) No. 10233 of 2024 (Delhi High Court)]”

21. Adverting to the aforesaid settled principles of law, the proposition on regularization as urged on behalf of Respondent No. 3, if accepted, would also bring about the situation of creating two categories of citizens as observed by the Division Bench of this Court in the proceedings of High Court on its own motion (In the matter of Jilani Building at Bhiwandi) (Supra) i.e. firstly, a category of citizens who would intend to adhere to the rule of law; who would approach the planning authority by applying for a planning/development permission by putting up plans through their architects and to undertake legal and authorized constructions; and on the other hand a category of citizens who have no regard for law and merely because they have large resources (possibly not legitimate) at their disposal to undertake unauthorized construction. What would be these resources is only to be imagined, being utilized in connivance with the official machinery in putting up illegal constructions.”

7. Insofar as the petitioners entitlement is concerned, as the appropriate action being taken is referred to in paragraph 2. We are required to note the relevant contents of the said affidavit, which reads thus:

“9) I say that in respect of the R-11 Building, tenements from

Ground to 5th Floor are for SRA Commercial Rehab and tenements from 6th to 10 Floor were handed over to MMRDA as PAP. I say that MCGM addressed a letter dated 06.09.2023 to the Executive Engineer, SRA and Executive Engineer, MMRDA requesting to initiate action against unauthorised alteration and unauthorised usage in R-11. A Copy of the Letter dated 06.09.2023 addressed by the MCGM is hereto annexed and marked as Exhibit J. I say that in response to the same, the Executive Engineer (H/East) Ward, SRA has by letter dated 11.10.2023 directed the Respondent No.5 Developer and Architect to demolish the unauthorised alteration. A Copy of the Letter dated 11.10.2023 is hereto annexed and marked as Exhibit K. I say that letter dated 11.10.2023 was also addressed to Executive Engineer MMRDA to issue appropriate action against the unauthorised alteration in respect of tenements handed over to MMRDA. A Copy of the Letter dated 11.10.2023 addressed to MMRDA is hereto annexed and marked as Exhibit L. I say that a letter dated 30.07.2025 was also addressed to Adani Electricity to cut the electricity supply and Letter dated 31.07.2025 was addressed to MCGM to not provide water supply and cut sewerage connection in respect of R-11. A Copy of the Letter dated 30.07.2025 addressed to Adani Electricity and Letter dated 31.07.2025 addressed to MCGM is hereto annexed and marked as Exhibit M. In spite of the notices, as the unauthorised alterations were not demolished, after the inspection on 07.08.2025, the SRA has started to demolish the unauthorised alteration in R-11. A copy of Photographs of the partial demolition in respect of unauthorised alteration in R-11 Building is hereto annexed and marked as Exhibit N. A site inspection reports and violations is hereto annexed and marked as Exhibit O. In respect of inspection report, the MMRDA will be informed to take necessary action according to law. It is observed that Hotels mentioned in inspection report are registered with MCGM. Fire safety, unauthorised alteration, sealing of Lift lobby and misuse of Flowerbeds may have been looked into by concerned officials.

10) I say that as per the Survey carried out on 29.07.2025, 30.07.2025 and 31.07.2025, I say that there are total 563 unauthorised occupants in 12 Rehab Buildings, wherein OC /part OC have been granted. I say the Comptenet Authority-3, SRA, Brihanmumbai shall issue show cause notices u/s 3E of the Slum Act as to why they should not be evicted therefrom by giving them a reasonable opportunity of hearing.

11) As regards to para 3 of the Short Affidavit dated 06.08.2025, I say that there is no merit in the contention of the Petitioners that the Petitioner No.1 is entitled for additional 531 sq. ft. apart from the 225 sq. ft. which has been handed to the Petitioners on 04.08.2025. I say that even though the area mentioned on Annexure-II in respect to Petitioner No.1 is around 750 sq. ft. As per Development Control Regulations, the Applicant is entitled to get the commercial area of 225 sq. ft. carpet free of cost and whereas for the area exceeding 225 sq. ft, upto the area

mentioned in Annexure-II, the concerned developer may allot the same to the Applicant on preferential-basis from sale component. The provision of clause 5.3 of Appendix-IV is reproduced below for ready reference:

"5.3 Built up area for commercial / office / shop /economic activity upto 20.90 sq. mtrs. (225 sq. ft.) carpet area or actual area whichever is less, shall be provided to the eligible person free of cost as part of the rehabilitation project. Any area in excess of 20.90 sq. meters to the extent of existing area may, if required, be sold on preferential basis at the rate of commercial area in the free sale component".

I say that in the subject Scheme, it appears Respondent No.5 Developer has not made any provision for the Petitioner No.1 for entitlement of area around 750 Sq Feet. Issue of Additional Area over and above 225 Sq Feet is between the Developer and Petitioner No.1, that too depending upon the availability and if the provisions are made in the plan by the Developer. Hence, SRA can only provide 225 Sq Feet of Commercial area to Petitioner No.1 and not for any additional Area.

12) As regards to Para 7 of the Short Affidavit dated 06.08.2025 in respect of Rent, I say that I have already explained the same in para 12 of my earlier Affidavit dated 07.08.2025. In any event, I reiterate that the Assistant Registrar C.S., SRA, Brihanmumbai has received an Application dated 25.07.2025 from Petitioners for computing the transit rent from 2006 till 2011. In response to the same, the SRA has intimated by letter dated 25.07.2025 to the Petitioners to provide details of the computation of rent, demolition of old structure etc. I say that thereafter a hearing was also scheduled on 01.08.2025. However, on the said date, no details were provided as mentioned in the letter dated 25.07.2025. I say that as and when the Petitioners provide the details, the Assistant Registrar C.S., Mumbai Suburbs, SRA, Brihanmumbai will decide the computation in accordance with law. The Slum Rehabilitation Authority, Brihanmumbai issued Circular No.223 on 05.08.2025 for facilitation of formation and registration of Co-operative Society as per the Maharashtra Co-Operative Societies Act, 1960 and related Government Resolutions (GRs) and ensure that the Society formation process is completed within 90 days from the issuance of OC by Executive Engineer, SRA. Copy of Circular No.223 dated 05.08.2025 is hereto annexed and marked as Exhibit P."

8. As fairly pointed out by Dr. Sathe, building No. R-11 where the petitioners are granted allotment and now put in possession, an occupation certificate from 1st floor to 10th floor is granted, however, ground floor premises is yet to be given

an occupancy certificate due to some monetary claims which were raised against the developer HDIL. It cannot be a situation that 1st to 10th floor has occupancy and the ground floor for such technical reasons which are not on any planning issues, was not granted occupancy. We, accordingly, direct the SRA to grant occupancy certificate to the ground floor premises within 15 days from today, as in our clear opinion, it ought not be withheld for such monetary compliance and more particularly it to the knowledge of the Chief Executive Officer and/or concerned officer of the SRA, the ground floor has been occupied since the year 2013. This would, however, be keeping all actions and claims of the SRA to recover whatsoever amounts from the said developers not only qua this project but any other project as the law would mandate.

9. Learned counsel for the petitioners has made a statement that the petitioner no.1 will occupy the ground floor premises and subject to his legitimate entitlement, claim an additional area in terms of what has been provided for in Clause 5.3 of Appendix – IV, which has also been noted in the affidavit (supra).

10. We permit the petitioner to make an application to the SRA, as it would be now the SRA who would be empowered to make such allotment, as the developer – HDIL, has abandoned the projects. The SRA being the custodian of the rights of the Slum dwellers, will be now required to act in accordance with law and from its pool of the tenements which is available with the SRA and with a priority in the building in question if such premises are available, the said petitioner would be required to be granted such additional area subject to payment of the cost,

which the petitioner is ready and willing to pay.

11. We also have a grievance of the petitioners that they have not been paid the transit rent. Our attention is drawn to an order passed in the companion petition insofar as the entitlement to transit rent is concerned. Our orders passed in such petition also operate insofar as these petitioners are concerned and the petitioners accordingly would be entitled to apply to the SRA for quantification of the transit rent and such application for transit rent be decided by the Chief Executive Officer in accordance with law. All contentions in that regard are expressly kept open.

12. As the grievances of the petitioners stand fully satisfied in the manner as observed hereinabove, as also an exhaustive affidavit has been placed on record by the Chief Executive Officer in the present proceedings in regard to the gross illegalities in the slum scheme in question and more particularly when it consists of 13 buildings, all such appropriate action including demolition of building No. R -2 is required to be taken by the SRA in accordance with law.

13. Needless to observe that those occupants in the unauthorized building who are eligible slum dwellers, would be required to be considered for allotment of permanent alternate accommodation in the pool of tenements which are available with the SRA and their rights for entitlement to a legitimate tenement need to be recognized by the SRA.

14. Further those who are rank illegal occupants can in no manner be entitled

to occupy slum tenements. They would have no legal right to remain in occupation of the slum tenements. They need to be evicted as per law.

15. We also note that exercise of identification of the illegal occupants has already been undertaken. A chart to that effect is annexed to the affidavit of Chief Executive Officer of Slum Rehabilitation Authority dated 5 August 2025 filed in this petition in which the following information is placed before the Court:

(Translation of a photocopy of a Table (Exhibit – C), typewritten in Marathi)

Sr. No.	Report in respect of the Flats located in Motilal Nehru Nagar Co-op. Housing Society	Total Flat Holders
1	Total number of Flats surveyed	1487
2	Number of PAP Flats allotted to MMRDA as per the Survey	630
3	Number of Flats available for Hutment Dwellers under the Rehabilitation Scheme of SRA	857
4	Number of eligible Hutment Dwellers in Annexure – II	845
5	Number of Flats allotted to eligible Hutment Dwellers under the Slum Rehabilitation Scheme and who only are residing therein	138
6	Number of Flats allotted to eligible hutment dwellers under the Slum Rehabilitation Scheme and thereafter, sold/rented out	547
7	Offences have been registered against the Flat holders in Building No. 2 who are in unauthorized occupation	156
8	Flat holders who are ineligible under the Slum Rehabilitation Scheme but have taken possession of the Flat and are still residing therein	16
9	Flat holders who are eligible beneficiaries of SRA however, have taken allotment in the PAP of MMRDA.	25

16. We observe that further appropriate action in accordance with law would be required to be taken by the Chief Executive Officer in regard to all the illegalities in respect of unauthorized occupation of the slum tenements and which has deprived the slum dwellers who are legitimately entitled to be put in possession of their allotted tenements. The eligible slum dwellers who have so far not been granted the possession of their tenements ought to be immediately granted possession of the tenements, as it is already delayed for more than 13 years. Appropriate steps in that regard be taken by evicting those who are in unauthorized occupation, so that these legitimately entitled slum dwellers whose names were already notified in Annexure II and allotment orders issued to them, are not kept deprived of the benefits of the allotments as made in their favour. All contentions of the parties in that regard are expressly kept open.

17. Needless to observe that our directions in the order passed today in *Writ Petition No. 3646 of 2022* in the case of ***Shakir Ahmad Shah vs. Apex Grievance Redressal Committee & Ors.*** in regard to the enquiry being undertaken by the Principal Secretary Urban Development Department shall also apply in the present proceedings and for compliance, this petition also be listed along with companion petition writ petition after four weeks, i.e., on 8 September 2025.

18. Considering such ground realities in relation to the SRA projects, we also direct the Chief Executive Officer to undertake an immediate survey of all SRA projects in which there are complaints of illegal occupation of slum tenements irrespective of the fact whether such tenements need to come to the common pool

of the SRA or to be categorized as surplus/Project Affected Persons or which are entitled to the legitimate allottees and who have not handed over the possession of such tenements. A project-wise lists of all the slum schemes/slum projects after such project be prepared and the action be taken in accordance with law against the illegal occupation.

19. Let this task be completed within a period of three months from today, i.e., till **10 November 2025**.

20. Further adjudication of the petition in this circumstances is not called for. It is accordingly disposed of. No costs.

21. Accordingly, **for compliance** to be reported to the Court in terms of what has been directed by us in **paragraph 17** above, the proceedings be listed on **8 September 2025 (H.O.B)**.

22. Insofar as the **compliance** in regard to what has been observed in **paragraph 19**, the proceedings be made returnable on **10 November 2025 (H.O.B)**.

(ARIF S. DOCTOR, J.)

(G. S. KULKARNI , J.)