

Shailaja

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

WRIT PETITION NO.578 OF 2025

Bhimrao Shankar Kudale	]	Petitioner
Vs.		
Maharashtra Housing and Area	]	
Development Authority and another	]	Respondents

a/w

**INTERIM APPLICATION [L] NO.16949 OF 2025
IN
WRIT PETITION NO.578 OF 2025**

Ritesh Ramdas Sagwekar	]	Applicant
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IN THE MATTER BETWEEN:

Bhimrao Shankar Kudale	]	Petitioner
Vs.		
Maharashtra Housing and Area	]	
Development Authority and another	]	Respondents

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Mr. Sagar Batavia a/w Bhagyashri R. Mangale, for Petitioner.

Mrs. Manisha Jagtap, for Respondents.

Mr. Abhijit Patil, for Applicant in Interim Application [L] No.16949 of 2025.

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**CORAM : G.S. KULKARNI &
ARIF S. DOCTOR, J.J.**

DATE : 10 JUNE, 2025.

P.C:

1. We have heard learned Counsel for the parties and the learned Counsel for the intervener.

2. This petition under Article 226 of the Constitution of India is filed praying for the following substantive reliefs;

(a) That this Hon'ble Court be pleased to order to issue Writ of Mandamus or any other writ, order of direction in the nature of writ against the Respondents directing them to allot New Transit Accommodation in lieu of Original Tenanted Premises i.e Room No.38, 196/198, Narsinatha Street, Mumbai – 400 003, to the Petitioner forthwith.

(b) That this Hon'ble Court be pleased to order to issue Writ of Mandamus or any other writ, order or direction in the nature of writ against the Respondents directing them to take immediate action under the provisions of Mhada Act for removal of encroachment of Laxmi Ramdas Sagvekar in respect of Building No.7-D, Tenement No.1703, Kannamwar Nagar Transit Camp, Vikhroli, Mumbai-400 083 and hand over possession of the same to the Petitioner;

(c) That this Hon'ble Court be pleased to pass an order directing the Respondents to allot residential premises as temporary transit accommodation to the Petitioner till the Petitioner's case is decided by this Hon'ble Court on merits".

3. It is also informed by the learned Counsel for the MHADA that premises viz: Building No.7-D, Tenement No.1703, Kannamwar Nagar Transit Camp, Vikhroli, Mumbai 400 034 were sealed on 14th May, 2025 under a *panchanama*, a copy of which is handed over to the learned Counsel for the petitioner.

4. We are informed by the learned Counsel for the petitioner that the petitioner has already availed of an alternate remedy by approaching the Vice President in an appeal assailing the order dated 24th January, 2018. The appeal was filed on 8th March, 2018. It is pending consideration before the appellate

authority. In the facts and circumstances of the case, we are of the opinion that it is appropriate that the petitioner's appeal be decided as expeditiously as possible and, in any event, within a period of three months from today. All contentions in that regard are expressly kept open.

5. There is an Intervention Application i.e Interim Application [L] No.16949 of 2025 filed by Ritesh Ramdas Sagwekar who states that he is aggrieved by a notice issued to his client under section 95 (A) (3) of The Maharashtra Housing and Area Development Act, 1976. Certainly, we cannot grant any relief to the intervener in this Writ Petition. It is open for the intervener to take recourse to appropriate proceedings as the law may permit. It is informed that an appeal is already filed, if not filed in the proper form, let the same be filed within ten days from today. The Appellate Authority shall consider the appeal on its own merits and decide the same as expeditiously as possible, and, in any event, within a period of three months from the date of filing of the appeal. All contentions of the parties in that regard are expressly kept open.

6. Before parting, we may observe that the Court routinely comes across cases of illegal occupants, often occupying the transit accommodation or persons occupying such accommodation without a semblance of legal right or any legal entitlement. This cannot happen unless there is a dormant approach on the part of the official machinery, who do not act in a manner the law would

mandate in performing their official duties and/or discharging the public trust reposed in them. By such illegality at both the ends the illegal occupants are depriving persons who are genuinely in need of accommodation. We are informed that there is an extra legal interference in protecting such illegal occupants, creating an embargo on the officers of MHADA not to take an action against such illegal occupants.

7. If this be the position, we make it clear that no extra legal interference ought to be tolerated, in any manner whatsoever. The names of such persons who are illegally interfering in the MHADA officials (at any hierarchy) discharging their official duties, need to be dealt strictly as per law. The names of such persons who are causing extra legal interference, in any of the MHADA officials discharging their official duties, be intimated to the Vice Chairman, MHADA by the concerned officials, whose office shall acknowledge any such complaint received from any official, for action to be taken in accordance with law, depending on the nature of the complaint. If the Vice Chairman himself is encountered with any such interference, he is free to submit names of such persons to the Chief Secretary and/or to this Court by moving an application in the proceedings, so that we can pass appropriate orders.

8. Accordingly, the MHADA officials or for that matter any officials of similar Planning Authorities like the Municipal Corporation (s), MMRDA, CIDCO etc shall not permit any illegal occupation of any of its premises

depriving the legitimate and genuine persons, who are in dire need of transit accommodation or any other accommodation. We expect that concerned officials to act strictly in accordance with rules and regulations, who should not tolerate any illegal interference by any person in the discharge of their official duties.

9. The petition stands disposed of in the aforesaid terms. No costs.

10. Intervention Application [L] No.16949 of 2025 also does not survive. It stands disposed of in the aforesaid terms.

11. This order be circulated by the Vice Chairman, MHADA to all the concerned Officials, who are directly dealing with the occupation of the MHADA premises. Also the order be forwarded to the heads of the other authorities as noted by us.

[ARIF S. DOCTOR, J.]

[G.S. KULKARNI, J.]