

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 567 OF 2024**

Dadar Motor Works & Ors

...Petitioners

Versus

Maharashtra Housing & Area Development Authority & Ors ...Respondents

Mr. Vishal Kanade a/w Ms Akansha R. Patil, Ms Purva Pendurkar i/b Narayanan & Narayanan for Petitioners.

Mr. P. G. Lad a/w Ms Sayali Apte for MHADA.

Mr. Ram Apte, Senior Advocate a/w Mr. Kamlesh Tiwari for Respondent No.3.

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

DATE : 18th JUNE, 2025.

P.C:

1 Mr. Lad, the Learned Counsel for the MHADA on instructions states that the order dated 1st April 2025 is being withdrawn by the MHADA. Statement is accepted.

2 In so far as the redevelopment is concerned, the question is of the recognition of the area of the open space, to which, there ought not to be any further dispute in view of the clear order dated 15th March 2024 passed by this court observing that the decree as passed by the Civil Court of competent jurisdiction is required to be taken into consideration and such rights of the petitioners as recognised by the decree, need to be recognised in the redevelopment of the premises. For convenience, we note the observations of the co-ordinate bench of this court in order dated 15th March 2024:

“1. A proposed settlement between the parties is threatened because there is a dispute about the open area which is said to be in occupancy of the 1st and 4th Petitioners. Both these Petitioners have from different Courts obtained decrees protecting their possession. There is no question of the Maharashtra Housing and Area Development Authority ("MHADA") certifying any area less than that which is the subject matter of the decree. There is also no question of the developer saying that the open area is 'likely to be property of a future society yet unformed. If there is a decree that protects possession, it is available to the parties in those suits against all claimants because the protection is against interference with that possession. It is perfectly acceptable for MHADA to certify the areas of all the Petitioners but this cannot be done without due regard to any decrees that have been passed and orders that have been obtained from a Civil Court of competent jurisdiction. There may be in addition other material to show exclusive possession. The MHADA certification is not related to anything except an occupancy. Once that occupancy is established, MHADA must certify the area that is under occupation. It may well be that an internal MHADA record may show a lesser area. But that will necessarily yield to a decree of a Court.

2. Subject to this, and on this basis, MHADA will proceed to certify. If required MHADA may in the course of their certification process make explicit and express reference to this order of the Court as the basis on which that certification is carried out.”

3 In this view of the matter, as fairly agreed by Mr. Lad we adjourned the proceedings to **27th June 2025 High on Board**, to enable MHADA to take further appropriate and consequential steps so that the petition itself can be disposed of and the redevelopment can proceed, which is the anxiety of also the developer who are respondent no.4 represented by Mr. Apte, learned Senior Advocate.

4 Ad-interim orders passed earlier shall also continue to operate till the adjourned date of hearing.

5 We also clarify that the aforesaid orders as also the orders passed in this petition, in no manner, would prejudice the rights and contentions of the parties in the proceedings pending before the Small Causes Court.

6 Needless to observe that whatever particulars in regard to the open spaces or any other requirements in terms of the decree are required by MHADA, the same be provided by the petitioner, if called for, by the MHADA and/or by the developers.

[ARIF S. DOCTOR, J.]

[G.S. KULKARNI, J.]