



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

WRIT PETITION NO. 905 OF 2024

Prakash Pundalik Shertate

... Petitioner

Vs.

Harresh N. Mehta & Ors.

... Respondents

Mr. Sanjiv A. Sawant a/w. Ms. Samiksha S. Mane i/b. Ms. Ruchita Kadam for the petitioner.

Mr. Arun Panickar i/b. Mr. Milind Nar for respondent nos. 1 and 2.

Mr. Jagdish G. Aradwad (Reddy) for respondent nos. 3 and 4-SRA.

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

DATED: 15 SEPTEMBER, 2025

P.C.

1. This petition under Article 226 of the Constitution is filed praying for the following substantive reliefs:

“(a) That this Hon’ble Court be pleased to pass appropriate directions thereby directing respondent nos. 3 and 4 to forthwith take appropriate action against respondent nos. 1 and 2 for not completing the slum project and more particularly not providing the commercial premises to the petitioner pursuant to the undertaking given to this Hon’ble Court as per the order passed on 30 July, 2019 in Writ Petition No. 807 of 2018.

(b) That this Hon’ble Court be pleased to pass an order thereby initiating appropriate enquiry against the respondent nos. 1 and 2 who have made default thereby not complying with the order dated 30 July 2019 passed in Writ Petition No. 807 of 2018 and further to take all necessary steps thereby completing the slum project at Final Plot No. 36, TPS III, Mahim, Bhosalewadi, Bal Govinddas Road, Dadar, Mumbai – 400 028 as expeditiously as possible and to provide permanent alternative commercial premises to the petitioner as per the order dated 30 July, 2019 passed in Writ Petition No. 807 of 2018.

(c) That this Hon’ble Court be pleased to pass an order thereby taking all necessary action against respondent nos. 1 and 2 for non-compliance of the order dated 30 July, 2019 and the undertaking given in paragraph 6 of the order by the respondent nos. 1 and 2 thereby not providing commercial premises to the petitioner herein within 3 years

from the date of the order dated 30 July, 2019.

2. It is not in dispute that the petitioner is entitled to a permanent alternate commercial tenement. The petitioner had approached this Court on the earlier occasion by filing Writ Petition No. 807 of 2018, which came to be disposed of by an order dated 30 July, 2019. The said order is required to be noted, which reads thus:

1. Having heard learned Counsel for the parties, we have arrived at broad consensus, which would bring to an end to this litigation.

2. The record would suggest that Petitioner is occupying a commercial premise of 66 sq. ft. area on the ground floor at Shop No. 21, Bal Govinddas Road, Dadar (West). Respondent No.1 developer has undertaken redevelopment of the plot. His Counsel stated that the developer has already built a rehab building in which 53 erstwhile occupants have been permanently resettled. The developer proposes to build another building in the same plot which would be a composite building for rehab cum resale. He stated that the Petitioner is the sole occupant who has not vacated the building due to which the demolition thereof has not been carried out. He pointed out that the Petitioner is protected by an interim order of the Court.

3. Learned Counsel for the Petitioner submitted that Respondent No.1 has taken unduly long time to complete the development. His permissions from the SRA are also not in place.

4. In view of such situation, learned Counsel for the developer stated that if the Petitioner is prepared to vacate the premises, the developer would pay compensation @ Rs.15,000/- per month as asked by him in this petition, for the period of 3 years in lump sum presently. He further stated that the developer would complete the construction of the proposed building and permanently resettle the Petitioner in such building by allotting commercial premises of similar size on the ground floor of such building within 3 years from today. He would file undertaking to this effect before this Court. He further stated that if the resettlement is not done as assured to the Court within the time, he would revise the compensation.

5. Learned Counsel for the Petitioner stated that the Petitioner would vacate the premises within a period of four weeks from today upon Respondent No.1 making payment of compensation as agreed above.

6. Under the circumstances , writ petition is disposed of with following directions:

i) Respondent No.1 shall pay a sum of Rs.5,40,000/- towards compensation to the Petitioner for a period of 3 years from today; within a period of one week from today.

ii) Any one of the partners of the Respondent No.1 developer shall file an undertaking within a period of one week from today declaring that he shall resettle the Petitioner in commercial premises of similar size on ground floor of the composite building to be constructed; within a period of 3 years from today; failing which, he would pay to the Petitioner compensation at the revised rate of Rs.30,000/- per month till resettlement.

iii) The Petitioner shall file an undertaking within a period of one week from today that if the compensation of Rs.5,40,000/- is paid by Respondent No.1 as assured, he would vacate the premises in question latest by 30.08.2019.

7. This order is passed in presence of the Petitioner as well as the representative of Respondent No.1 developer.

8. Writ Petition is disposed of accordingly. Interim relief vacated

3. The petitioner being not paid the transit rent and no steps being taken to rehabilitate the petitioner by allotment of a commercial tenement, has filed the present petition.

4. The present proceedings were heard on the earlier occasion and more particularly when a substantive order came to be passed by this Court on 7 August, 2025, which reads thus:

“1. We are informed by learned Counsel for the Respondent Nos.1 & 2 on instructions that they have already paid the transit rent up-to July 2025 and that transit rent of further six months would also be ready and willing to be paid to the Petitioner. We accept the statement.

2. Insofar as the request of the Petitioner for enhancement is concerned, we permit the learned Advocate for Respondent Nos.1 and 2

to take instructions and inform the Court on the adjourned date of hearing. Let the advance rent for further six months be also paid. Insofar as the further progress of the tenements to be made available to the Petitioner is concerned, let the same be also placed on record on an affidavit which be filed on or before the adjourned date of hearing. Copy of the same be served on the learned Advocate for the Petitioner.

3. List the proceedings on 14th August, 2025 High on Board.

4. Needless to observe that on the proceedings are pending before the AGRC, all contentions of the parties in such proceedings are expressly kept open.”

5. We are informed that insofar as the transit rent is concerned, the petitioner has been paid transit rent in accordance with the observations as made by the Court in paragraph 1 of the order dated 7 August, 2025, which has been paid upto January, 2026. He submits that although the construction of rehabilitation building was complete and the residential rehabilitation tenements are already housed in the said building, there were some issues in respect of resale/composite building, which could not be taken forward despite the project being complete.

6. Further, an action was initiated against the developer for his removal and in that regard an order dated 5 June, 2025 came to be passed by the Chief Executive Officer, SRA under Section 13(2) of the Maharashtra Slum Areas (Improvement, Clearance & Redevelopment) Act, 1971. It is his submission that the said order has been challenged by the developer before the Apex Grievance Redressal Committee (AGRC). Such proceedings were heard on 22 August, 2025 and are closed for orders. He submits that in the event, the developer succeeds, undoubtedly, the work in regard to composite building would be undertaken and the petitioner would be rehabilitated and until such time, the petitioner would be

paid transit rent without any default. This statement as made is accepted as an undertaking to the Court.

7. Mr. Sawant submits that the petitioner has vacated his original premises in July, 2019 and since then, he is out of the premises. It is his submission that the petitioner would therefore become entitled for enhanced rent. We do not know how long it would take for the developer to construct the composite building. If the petitioner by passage of time needs increased transit rent and accordingly claims an enhancement of rent, he has to make an application to the Chief Executive Officer-SRA, who shall hear all the parties and take an appropriate decision considering all relevant facts and circumstances including the market condition on rent, within six weeks from the filing of the said application. All contentions of the parties in that regard are expressly kept open. We also keep open all contentions of the parties in pending proceedings before the AGRC.

8. Needless to observe that SRA as also the developer would be required to take expeditious steps in accordance with law so that all the slum dwellers are appropriately accommodated in the slum scheme in question.

9. In this view of the matter, further adjudication of the petition is not called for. It is disposed of in the aforesaid terms, keeping open all other contentions of the petitioner in regard to the petitioner's rehabilitation in the allotment of PAA of commercial premises.

10. No costs.

(AARTI SATHE , J.)

(G. S. KULKARNI , J.)