

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

WRIT PETITION NO. 1335 OF 2024

Pataarc Developers	...Petitioner
VERSUS	
Mumbai Building Repairs And Reconstruction Board (MBR And RB) & Ors.	...Respondents

WITH
INTERIM APPLICATION (STAMP) NO. 20271 OF 2025
IN
WRIT PETITION NO. 1335/2024

Pataarc Developers	...Applicant
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IN THE MATTER BETWEEN :

Pataarc Developers	...Petitioner
VERSUS	
Mumbai Building Repairs And Reconstruction Board (MBR And RB) & Ors.	...Respondents

Mr. Girish Godbole, Senior Advocate a/w Mr. Rutuparn Umesh Deo, Ms. Aishwarya Gaikwad, Mr. Mukund More i/by Mr. Aditya Lele for Petitioner/Applicant.

Mr. P. G. Lad a/w Ms. Aparna Kalathi, Ms. Sayali Apte for Respondent Nos.1 & 2 - MHADA.

Ms. Meena Dhuri i/by Ms. Komal Punjabi, for Respondent - BMC.

Mr. Dhiraj Karande, Sub Engineer (Bldg. and Factory Dept.) 'D' Ward, present.

Mr. Pranesh J. Gada for Respondent Nos.4 & 5.

Mr. Huzefa Nasikwala a/w Ms. Farzana Rine for Respondent No.12.

Mr. Roshan R. Hormalkar for Respondent Nos.15 to 18.

Mr. Khan Javed Akhtar for Respondent No.20.

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

DATE: 30th JULY 2025

P.C.

1. On this Petition, a Co-ordinate Bench of this Court on 17th March, 2025 had passed the following order :

- "1) Leave to amend to delete prayer clause (a), granted.
- 1.1) Amendment be carried out forthwith.
- 2) In view of the disputed facts that, whether the structural audit reports submitted by Petitioner or Respondent Nos.4 to 20 is correct, it will be appropriate in the interest of justice to direct the Chief Executive Officer of MHADA to appoint a team of experts in the field i.e. structural engineering or civil engineering and to submit a report to this Court, about the stability and/or otherwise of the suit building.
- 2.2) The said report be forwarded to this Court within a period of four weeks from today.
- 3) Stand over to 21st June, 2025."

2. The Petitioners intend to redevelop the building as according to them it is in a dilapidated condition. It is on such ground, this Petition is filed praying for the following reliefs :

- "a. This Hon'ble Court be pleased to issue a Writ of Mandamus or any other appropriate Writ to the Respondent No. 3 to forward the contradictory reports of the Respondent Tenants to the Technical Advisory Committee;
- b. This Hon'ble Court be pleased to issue a Writ of Mandamus or any other appropriate Writ directing the Respondent No. 3 to determine the Structural stability of the building through its Technical Advisory Committee by comparing the report submitted to the authority within a certain stipulated time or conduct their own Structural Audit Report if needed.
- c. This Hon'ble Court be pleased to direct the Respondent No. 1 to 3 to issue all the necessary directions to the Respondent No. 4 to 20 to prevent any untoward incident to the said Botawala building.
- d. Cost of the Petition be provided;
- e. For such other and further reliefs as this Hon'ble Court may deem fit, just and equitable in the interest of justice."

3. As there was a dispute in regard to the Petitioner's contention in regard to the condition of the building and whether it had become dangerous, it appears

that the Co-ordinate Bench after hearing the parties had passed the aforesaid order dated 17th March 2025. We are informed that the structural audit report is now placed on record of Structera Engineering LLP along with letter dated 9th April 2025 as appointed by MHADA. The said structural auditor has made the following remarks:

"15. Classification of Building : C1 (To be DEMOLISHED immediately).

General Notes and Limitations:

1. The report is based on visual inspection of accessible area and data provided by client/tenants. This report serves a basis of preliminary health assessment of building.
2. Due to absence of design data and as built detailed Structural drawings, resistance of structure for earthquake/wind forces cannot be assessed & additional load of mobile transmission tower & equipment's are erected above terrace floor cannot be assessed.
3. Inspection of substructure was not possible and hence condition of structure below plinth cannot be commented on.
4. The observations made in Structural Audit report are made during the time of Audit. Recommendations/advice mentioned in the report shall be taken immediately. We shall not be held responsible for any changes in structural condition thereafter as distress will be increasing over the time period.
5. Information regarding building history is mentioned as provided by occupants & the same may vary.
6. Propping and chipping of loose concrete and repairing of the same shall be done wherever required if any by taking necessary approvals from concerned authorities."

4. It appears that the report is on visual inspection. The Court cannot have an expertise to form any technical opinion on the experts report. In the present case in any event such report appears to be on visual inspection. The learned counsel for the MHADA informs this Court that NOC has already been issued. We keep open all contentions of the parties in regard to such report and for an appropriate action to be taken by the MHADA officials as the law would mandate.

5. In this view of the matter, further adjudication of this Petition is not called for. In the event any person is aggrieved by the report, all contentions in that regard are expressly kept open.

6. Petition is disposed of accordingly. No costs.

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7. At this stage Mr. Godbole, learned Senior Advocate appearing for the Applicant/Petitioner seeks leave to withdraw the Interim Application with liberty to the Applicant/Petitioner to adopt appropriate proceedings.

8. Allowed to be withdrawn with liberty as prayed for.

9. All contentions of the parties are expressly kept open.

(ARIF S. DOCTOR, J.)

(G. S. KULKARNI, J.)