

Prajakta Vartak

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

WRIT PETITION NO. 46 OF 2025

Sitabai Ramchandra Kolambkar & Anr.	...Petitioners
Vs.	
The State of Maharashtra & Ors.	...Respondents

Mr. Naushad Engineer, Senior Advocate with Mr. Yashodeep Deshmukh, Mr. Mehak Shah, Mr. Janmejy Singh and Mr. Yash Chavan i/b. Mr. Kuldeep Singh for Petitioners.
 Ms. Fatima Lakadawala, AGP for State.
 Mr. Yogesh Vijay Patil i/b. Mr. Abhijit Patil for Respondent Nos.2 & 3/SRA.
 Mr. Girish Godbole with Hrushi Narvekar and Ms. Vaibhavi Bhalerao i/b. Trilegal for Respondent No.4.

**CORAM: G. S. KULKARNI &
AARTI SATHE, JJ.**
DATE: 03 NOVEMBER 2025.

P.C.

1. We have heard Mr. Engineer, learned senior counsel for the petitioners, Mr. Godbole, learned senior counsel appearing for respondent no.4/developer, Ms. Lakadawala, learned AGP for State and Mr. Yogesh Patil, learned counsel for respondent nos.2 & 3/SRA.

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

- “a) Rule be issued & call for record & proceedings for;
- b) This Hon’ble High Court be pleased to quash & set aside the Order dated 05/04/2024 passed by the Ld. the Respondent no.3 Joint Registrar Cooperative Department of the SRA in the Application No. SRA/CO/WO/18476.
- c) This Hon’ble High Court be pleased to direct the Respondents as per the Circular No. 153 dated 06/06/2015 to fix the transit rent as per the prevailing market rates in the area where the scheme is under progress and periodical increase in the rent at the rate of 5% p.a. till the

permanent alternate accommodation is provided by the developer / builder.

d) In the alternative, this Hon'ble Court be pleased to quash be set aside the impugned order dated 05/04/2024 and direct the higher authority i.e. C.E.O of respondent no. 2 to hear the petitioner a fresh in compliance of and in sprit of the order dated 07/02/2024 passed by this Hon'ble Court in writ petition no. 464 of 2024.

e) Pending the hearing & final disposal of the writ petition that this Hon'ble High Court may be pleased to grant stay to execution and implementation of order dated 05/04/2024 passed by the Respondent no.3 Joint Registrar Cooperative Department of the SRA in the Application No. SRA/CO/WO/18476."

3. At the outset we may observe that although the petitioner society is aggrieved by the impugned order dated 05 April 2024 passed by the Assistant Registrar, Co-operative Department, SRA, which is in regard to the enhancement of the transit rent being received by the members of the petitioner-society who are slum dwellers, we find that the petitioner itself was not a substantive applicant before the said authority. It appears from the record that some of the members of the petitioner-society had moved this Court in the proceedings of Writ Petition No. 464 of 2024 on which a co-ordinate Bench of this Court had passed an order dated 07 February 2024 directing the said authority to decide such petitioner's representation on enhancement of the transit rent.

4. We find that the slum rehabilitation authority has issued circulars in regard to the payment of transit rent. One of the circulars under which the petitioners are asserting their rights is circular No.153 dated 06 June 2015 which *inter alia* provides for enhancement of 5% transit rent from what has been agreed between the parties under the development agreement. The development agreement itself is not part of the record before this Court. Also there is no averment in the

representation which was filed by the petitioner-society in intervention application in such proceedings before the Assistant Registrar, on the contents of the development agreement in the context of the transit rent. In our opinion, for any such assertion, the genesis can only be the development agreement in regard to the basic rights being asserted by the members of the petitioner, namely, as to what has been primarily agreed in the development agreement; on any terms and conditions in that regard as contained in the development agreement. If there is nothing provided in regard to the transit rent in the agreement, the competent authority would be required to decide the issues inter-alia in accordance with circular no.153 issued by the SRA dated 06 June 2015. All these are matters which are appropriately required to be considered by the competent authority which would determine issues on payment / entitlement of the members of the petitions as to transit rent.

5. In the aforesaid circumstances, as we are now informed, that it is only the society which would be pursuing the interest of its members for any enhancement and no individual member would be filing any proceedings/applications, as what they intend to contend, would be only through the society, accepting such statement as made on behalf of the petitioners by Mr. Engineer, we are of the opinion that all the issues in regard to the transit rent be now considered afresh in accordance with law by the Competent Authority/ Assistant Registrar. We are accordingly inclined to dispose of this petition in terms of the following order:-

ORDER

- i. The petitioners are permitted to make a representation in regard to the

enhancement of the transit rent within a period of two weeks from today raising all contentions as permissible in law. Within two weeks of service of such application on the respondent/developer, a reply to such application by the respondents be filed before the said authority.

ii. The competent authority shall consider the rival contentions on the issue of enhancement of the transit rent and after taking into consideration the agreement between the parties namely, the development agreement and the relevant documents if any, and the applicability of the circulars being Circular No.153 and Circular No.210, the Assistant Registrar shall take an appropriate view of the matter by a reasoned order to be passed, without being influenced by the impugned order dated 05 April 2024.

iii. Needless to observe that the competent authority shall call for appropriate details from the petitioners as also from the respondent/developer as to the amount of transit rent being paid by the developer to the members of the petitioner-society and whether there is any discrepancy and/or difference, in the uniform payment of such amounts, and as to what would be appropriate view to be taken in the facts and circumstances.

iv. All details of such payments so far made from the date of the members vacating their respective tenements would also be required to be furnished by the developer to the Assistant Registrar, which shall be considered by the competent authority in passing appropriate orders. Separate findings in this regard be recorded by the competent authority/ Assistant Registrar.

v. The Assistant Registrar, Co-operative Department shall decide the issue in regard to the transit rent as expeditiously as possible and in any event within a period of four weeks from the date of application being filed by the petitioner-society/administrator.

6. With the aforesaid directions, keeping open all contentions of the parties on such, we dispose of this petition. No costs.

7. Before parting we may observe that the slum development in question is on the land belonging to the Municipal Corporation. We are informed by Mr. Engineer that the development is being undertaken by respondent no.4/ developer since about 20 years. The Chief Executive Officer of the SRA is directed to inquire as to why such delay is being caused, as also, inform this Court on affidavit as to when the present slum rehabilitation scheme would be completed. This will include all the essentials in relation to factors delaying the scheme more particularly considering the observations as made by the Supreme Court in its recent decision in **Yash Developers vs. Harihar Krupa Coop. Housing Society Ltd.**¹ It cannot be that the SRA schemes on the public land are executed with such laxity and that too for 20 years being already spent in implementing the scheme. We do not intend to delve on the merits of the causes as already there is inordinate delay, and it is for the SRA to apply its mind and to achieve that the slum dwellers are rehabilitated at the earliest. The Municipal Corporation which is owner of the land also cannot be a mute spectator as observed by this Court in the decision of **Galaxy Enterprises vs. State of Maharashtra & Ors.**² as also **New Janta SRA CHS Ltd. vs. State of Maharashtra & Ors.**³.

8. We accordingly direct the Municipal Commissioner of the Mumbai Municipal Corporation to take up the issue with the Chief Executive Officer and also place on record the status in respect of the municipal land in regard to the slum development.

9. We are passing the aforesaid directions considering the significant orders which are passed in regard to the project in question by a co-ordinate Bench of this Court and more particularly when the Court intended to monitor this project as clearly observed in the order dated 22 November 2022 passed by the Division Bench of this Court [Coram: G. S. Patel (as His Lordship then was) and Sharmila U. Deshmukh, J.) in the proceedings of Writ Petition No. 565 of 2020.

1 (2024) 9 SCC 606

2 2019 SCC OnLine Bom 897

3 2019 SCC OnLine Bom 3896

10. List the proceedings for compliance by the Chief Executive Officer, SRA as also by the Municipal Commissioner on **17 November 2025 (H.O.B.)**.

11. We clarify that when we have made the aforesaid observations, in the light of the observations which are made by the Division Bench of this Court as noted by us hereinabove in Paragraph 9, which shall not be in any manner / be construed that such observations would provide any footing against respondent no.4.

12. We also clarify that it is the interest of all the stakeholders the slum redevelopment needs to be proceeded expeditiously, and the slum dwellers rehabilitated.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)