

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

WRIT PETITION NO. 908 OF 2025

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Ganpat Narayan Kadam & Ors.

...Petitioners

Versus

State of Maharashtra & Ors.

...Respondents

Mr. Mandar Soman a/w Vachan Bodke, Vaibhav Gaikwad i/b. V & M. Legal for
Petitioner.

Mr. Atul Damle, Senior Advocate a/w Joel D'souza, Ivor Peter D'cruz, Pierre
Fernandes, Rupali Singh & Simran Shirvoikar i/b. Ivor Peter D'cruz for
Respondent No.4

Ms. Madhura Deshmukh, AGP for Respondent-State.

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

DATE: 13th OCTOBER 2025

P.C.

1. This Petition filed under Article 226 of the Constitution of India
praying for the following substantive reliefs:-

“That this Hon'ble Court be please to issue a writ in the nature
of mandamus or any such other writ, order or direction calling
for the records of the cases and after going through such record
this Hon'ble Court be pleased to direct Respondent No. 2 and 3
to conduct an enquiry and necessary investigation in the re-
development process & cancel the NOC issued by the
Respondent No.2 & 3 in favour of the Respondent No.4.

b) That this Hon'ble Court be pleased to issue a Writ in the
nature of mandamus or any such other Writ order or direction
calling for the records of the case and after going through such
records this Hon'ble Court be pleased to direct the Respondent
No.6 to conduct an inquiry and investigation with respect to
payment of additional consideration of Rs.17,00,00,000/-

(Rupees Seventeen Crores Only) by the Respondent No.4 to the Respondent No.5 over and above the consideration amount mentioned in the Deed of Conveyance dated 30th October, 2014 and if so required direct the Respondent No.6 to cancel the permission u/s 36 of the Bombay Public Trust Act issued in favor of the Respondent No.5.

c) That pending the hearing and final disposal of the petition the Respondent No. 4 be directed to disclose on affidavit the details of the payment of Rs 17,00,00,000/- (Rs. Seventeen Crores Only) made to the Respondent No. 5.

d) That this Hon'ble Court be pleased to pass interim order restraining the Respondent No. 4 from proceeding with various suits filed by Respondent No. 4 against the tenants and occupants for recovery of rent and arrears alongwith compound interest and all such suits be stayed during the pendency of present petition.

e) Interim and ad-Interim reliefs in terms of prayer Clause (b).

f) For such further and other reliefs as the nature and circumstances of the case may require and the Court may deem fit be granted.

9) For the Cost of this Petition.”

2. We have heard Mr. Soman, the learned Counsel for the Petitioner and Mr. Damle, the learned Senior Counsel for Respondent No.4.

3. Mr. Damle has drawn our attention to the reply affidavit filed by Mr. Kailashprasad Satyanarayan Malpani, authorized signatory of Respondent No.4 and more particularly to the statement made in paragraph 8 of the said affidavit, which reads thus:-

“Without prejudice to what is stated hereinabove, I say that all the other Petitioners are in possession of their respective rooms and they have not been called upon till date to vacate their said rooms. I say that in event the Petitioner Nos. 2 to 22 and 42 to 26 are ready and willing to hand over vacant and peaceful possession of their respective rooms, I am ready and willing to enter into Agreement on the same terms and conditions as entered into with the other Tenants/Occupants. However, the said Agreements shall be subject to the outcome of the suits pending in the Small

Causes Court at Mumbai. I am ready and willing to pay the transit rent as is being paid to all other Tenants/Occupants.”

3.1 Mr. Damle, on instructions, stated that Respondent No.4 would pay an appropriate transit rent as is being paid to other tenants.

4. In this view of the matter, we are of the opinion that the Petition can be disposed of in terms of the following order:-

- i. We accept the statement made in paragraph 8 of the reply affidavit filed by Respondent No.4 as an undertaking given to the Court.
- ii. Let an agreement be entered between the Petitioner and Respondent No.4 as set out in paragraph 8 within a period of one month from today. Within 10 days of the said agreement being executed and registered, the Petitioner shall vacate their respective tenements. The agreement shall be executed subject to the outcome of the pending suits before the Small Causes Court.
- iii. All contentions in regard to re-development are expressly kept open.
- iv. Needless to observe that the Petitioners will be put in possession of the respective tenements as per the said agreement to be entered between the parties, along with the other tenants, within 15 days of the occupation certificate being granted.
- v. Petition stands disposed of in the aforesaid terms.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)