

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

WRIT PETITION NO.1311 OF 2025

Kanchanshri Investment Private Limited

Petitioner

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Maharashtra Housing and Area Development
Authority and others

Respondents

Mr.Reshant Shah with Ms.Reema Sahani i/by Lex Conseiller for Petitioner.

Mr.Mayur Khandeparkar with Mr.Saurabh Pakale i/by Mr.Milind Nar for
Respondent nos.6 to 14, 16 to 19, 21, 23, 24, 27 and 36.

Ms.Manisha Jagtap for MHADA.

Ms.Pushpa Yadav i/by Ms.Komal Punjabi for MCGM.

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

DATE: 15th December 2025

P.C.

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

“i. That the Hon'ble Court be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order or direction quashing and setting aside Notice dated 16.5.2023 at Exhibit-W invoking section 79(A) of the MHADA Act, 1976 against the said property and declaring the said property beyond repairs and to direct the Respondent Nos.1 to 3 to take cognizance of the Petitioner proposal for carrying out repairs work to the said property;

ii. That the Hon'ble Court be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order or direction thereby quashing and setting aside the impugned order dated 29.5.2024 at Exhibit-XX passed by the Respondent no.3 and to direct the Respondent nos.1 to 3 to consider the redevelopment proposal of the said property submitted by the Petitioner/Respondent no.5 on merits and to grant extension of time to the Petitioner accordingly;

iii. That the Hon'ble Court be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order or direction thereby quashing and setting aside the notice dated 14.6.2024 issued under section 79(A)(1)(b) of the MHADA Act, 1976, by the Respondent Nos.1 to 3 to the tenants/occupants;

iv. Pending the hearing and final disposal of the writ petition, the Hon'ble Court be pleased to restrain the Respondent nos.1 to 3 from acting upon and in furtherance of the Notice dated 16.5.2023 at Exhibit-W and impugned order dated 29.5.2024 passed by the Respondent no.3 at Exhibit-XX and notice dated 14-6-2024 at Exhibit-YY and to restrain Respondent nos.1 to 3 from acting further under Section 79(A)(1)(b) of the MHADA Act, 1976;

v. Pending the hearing and final disposal of the writ petition to restrain the respondent nos.1 to 4 from demolishing the said property/said building viz. Golecha House and not to act in furtherance thereof;

vi. Pending the hearing and final disposal of the writ petition, the Hon'ble Court be pleased to appoint Court Commissioner with the direction to inspect the said property and the units thereof and take measurement and photographs of the said property and the units thereof and submit his report to the Hon'ble Court;

vii. For interim and ad-interim relief in terms of prayer clauses (iii) above."

2. On 4th February 2025 a co-ordinate Bench of this Court passed following order :

- "1. It is a specific case of the Petitioner that the action of Respondent nos.1, 2 and 3 is mala fide and undertaken at the instance of Respondent no.5.
2. From the arguments advanced in the Court by the Advocates for Respondent nos.1 to 3 and 5, it prima facie appears that there is substance in it. In view thereof, Admit.
3. Interim relief in terms of prayer clause (v) granted.
4. During the pendency of present petition, the Respondents shall maintain status quo of the suit building as of today and will not further demolish the remaining part of the building.
5. We, however, grant liberty to the Petitioner to submit its proposal for redevelopment of the suit building to the MHADA within a period of four weeks from today. In the event, such proposal is submitted by the Petitioner to MHADA, it will consider it in accordance with law"

3. The said order was corrected by a subsequent order dated 18th February 2025 which is required to be noted, which reads thus :

“1. Praecipe dated 17th February 2025 is circulated by learned Advocate for the Petitioner for the Speaking to Minutes of the order dated 4th February 2025.

1.1 It is submitted that in Paragraph 1 of the said Order, the words ‘Respondent no.5’ have been erroneously typed instead of ‘Rohan Developers Private Limited’. The correct words are ‘Rohan Developers Private Limited’.

1.2 In paragraph 2 of the said Order the words ‘and 5’ have been erroneously typed and same stands deleted from the said paragraph.

2. After effecting the aforesaid corrections, Paragraphs 1 and 2 of the Order dated 4th February 2025 read as under :

“1. It is a specific case of the Petitioner that the action of Respondent Nos.1, 2 and 3 is mala fide and undertaken at the instance of Rohan Developers Private Limited.

2. From the arguments advanced in the Court by the Advocates for Respondent nos.1 to 3, it prima facie appears that there is substance in it. In view thereof, Admit.”

3. The order dated 4th February 2025 is corrected accordingly and the corrected copy of the Order be uploaded on the Official website of the Bombay High Court.

4. Praecipe dated 17th February 2025 I accordingly disposed off.”

4. The aforesaid orders passed by this Court were assailed by one of the tenants Mr.Sunil Laxmichand Anand, who was one amongst the 27 tenants in the proceedings of Special Leave to Appeal (C) No.4318 of 2025 on which on 21st February 2025 the Supreme Court passed the following order :

“1. Heard learned counsel for the parties.

2. The learned counsel Mr.Abhinav Chandrachud for the respondent no.6-the building owner submits on instructions that the said respondent has no objection, if the building is demolished, however, he has prayed that the proposal of the said respondent, who was the writ petitioner before the High Court be considered by the MHADA, as permitted by the High Court.

3. Having regard to the said submission, the interim order of status quo passed by the High Court is set aside, and stands vacated forthwith.

4. Let the High Court decide the petition as expeditiously as possible and in accordance with law.
5. The present special leave petition stands disposed of accordingly.
6. Pending applications, if any, shall stand disposed of.”

5. On the backdrop of the aforesaid order passed by the Supreme Court, learned counsel for the Petitioner who is the owner of the building in question, has categorically stated that his client is interested in redevelopment, as stated before the Supreme Court.

6. Heard learned counsel for the parties. At the outset we may observe that as on date there is no material to show and more particularly any declaration from any competent Court that the Petitioner is not the owner of the building and that tenants are paying the rent to any other person or to the Municipal Corporation. At this stage we are informed that eviction suits filed by the Petitioner against the tenants are pending and in these suits the tenants are depositing the rent in the Small Causes Court. It also appears to us on hearing the learned counsel for the parties and more particularly the tenants-Respondent nos.6 to 36, who are subsequently impleaded as parties in the present proceedings and who are represented by Mr.Khandeparkar, learned counsel. The tenants appear to be at loggerheads with the Petitioner. When Mr.Khandeparkar would vehemently submit that the tenants dispute the title of the Petitioner and in such context the rights of the Petitioner to redevelop the building, although the building is admittedly dilapidated. In such manner the opposition by the tenants is to the Petitioner undertaking redevelopment. From the nature of the arguments as advanced before us, voice of tenants does not appear to be their own but the voice

of a developer who appears to be behind the tenants in raising contentions opposing the Petitioner's attempts to undertake redevelopment. This more particularly when the tenants' interest confined to their tenancy rights would be to have an alternate accommodation in the redeveloped premises i.e. their rights to occupy the tenements, which would be constructed on the redevelopment of the building in question, obviously would be subject to the outcome of the pending eviction suits filed by the Petitioner.

7. On perusal of the compilation of documents placed on record on behalf of the tenants it appears that the Petitioner's proposal submitted to MHADA for redevelopment has been rejected by communication dated 16th May 2025. Learned counsel for the Petitioner has expressed surprise that although such order was passed, it was never communicated to the Petitioner, in his case. In fact, the Petitioner has called upon MHADA to show the proof of service of the said order as per law. Such is the complexion of the proceedings. The Petitioner also has serious grievance against the MHADA/its officials.

8. In the complexion of the facts as they stand, certainly it appears that there is some substance in the contentions as urged on behalf of the Petitioner. If the MHADA was to take such position as taken in the communication dated 16th May 2025 and which according to the Petitioner was passed behind the back of the Petitioner, certainly the Petitioner would be correct that the concerned official of the MHADA ought to have granted an opportunity to the Petitioner of being heard.

9. Be that as it may, we do not intend to express any opinion on the rejection of Petitioner's proposal and whether such decision of rejection is in accordance with law. We accept the Petitioner's contention that the Petitioner cannot be left remediless qua the communication dated 16th May 2025 passed by the MHADA which according to the Petitioner is passed without hearing the Petitioner. The Petitioner is accordingly at liberty to institute appropriate proceedings in the manner known to law, to challenge the said communication.

10. Insofar as MHADA is concerned, we direct MHADA that for a period of six weeks from today in the event any proposal of the developer appointed by the tenants is received, it ought not to be processed for the reason as to who is to undertake the development, whether the Petitioner landlord or whether the developer appointed by the tenants is so far not part of any order passed by the Court, as this issue would fall for consideration, in any fresh proceedings which the Petitioner may file.

11. We may also observe that on 22nd July 2025 an order was passed by a co-ordinate Bench. Thereafter it is submitted that in the month of July-2025 demolition was undertaken and now what remains on the site are the ground floor shops.

12. With regard to issuance of notice under Section 79(A) of MHADA Act which is dated 16th May 2023 in the present case, we may refer to the orders passed by this Court in the proceedings of **Javed Abdul Rahim Attar & others Vs. The Maharashtra Housing & Area Development Authority and others¹**, whereby the

1 Writ Petition (L) No.34771 of 2024, dated 28-7-2025

Committee appointed by the High Court is already looking into issuance of such notices which were assailed before this Court. In the said proceedings MHADA has made a statement that all notices issued prior to July -2025 shall be kept in abeyance. The Petitioner has stated that the Petitioner has approached the said Committee, however, so far the Committee is yet to hear the Petitioner. We keep open all contentions of the Petitioner in that regard to be urged before the Committee in that context.

13. In this view of the matter, we adjourn the present proceedings for a period of six weeks, however, subject to the aforesaid observations. We clarify that our orders against MHADA are in the context of recognition of the rights, as to whose proposal would be required to be considered for the purpose of redevelopment under the provisions of Regulation 33(7) of the Development Control and Promotion Regulations, as urged on behalf of the Petitioner. All contentions of the parties in that regard are expressly kept open.

14. Stand over to 27th January 2026.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)