



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 2302 OF 2025**

Municipal Staff Om Satlaj Co-op Hsg Sty Ltd. ...Petitioner

Versus

The State of Maharashtra, through Urban
Development Department & Ors

...Respondents

Mr. Anand Pai a/w Mr. Sachin Mhatre Rochelle Fernandes i/b Mhatre Law Associates for Petitioner.

Ms Manisha Gawde, AGP for State.

Ms Pushpa Yadav i/b Ms Komal Punjabi for BMC.

Mr. Kunal Kanuga a/w Mr. Rohit Agarwal i/b Mr. Atishay Jain for Respondent Nos.5 & 6.

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

DATE : 10th JULY, 2025.

ORAL JUDGMENT (PER G. S. KULKARNI, J.):

1 This petition under Article 226 of the Constitution of India is being pressed only for the following prayer:

“C. issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order, direction directing the said Respondent Nos. 1-3 not to insist on a No Objection Certificate (NOC) from the Respondent No. 5 and / or the Respondent No. 6, their subordinates, consultants or any other person claiming through them, as a condition prerequisite to processing any application for development, permission or NOC that the Petitioner may make either through themselves or through the Respondent No. 4, in furtherance of the Development Agreement dated 15th March, 2024.”

2 The Petitioner is a Co-operative Housing Society formed by the Municipal Staff and is the owner of land alongwith the building stated to be situated at Irla – Village, Vile Parle (West) Mumbai-400056. The existing

building consisted of Ground + 3 upper floor, having 13 residential flats. The Building was in a dilapidated condition. Accordingly, in a Special General Body Meeting held on 31st January 2010, a resolution was passed by the petitioner to reconstruct / redevelop the said Building by appointing a developer. Accordingly one Meeti Developers Private Limited (for short Meeti Developers) was appointed as the developer to undertake the redevelopment. A Development Agreement dated 20th December 2010 was entered between the Petitioner and Meeti Developers. Meeti Developers proceeded to undertake the redevelopment / construction of the new building which was to be totally of 14 flats. However, the construction is stated to have progressed up to 7 slabs and could not be taken forward as Meeti Developers was in severe financial difficulties. It is Petitioner's case that proceedings were initiated against Meeti Developers at the behest of one Edelweiss Asset Reconstruction Company before the National Company Law Tribunal (NCLT). It appears to be not in dispute that several obligations under the Development Agreement as entered into between the Petitioner and Meeti Developers were not performed and/or were defaulted by Meeti Developers including the payment of municipal taxes. With the grace period, it is stated that the redevelopment was to be completed by 2018, which admittedly was not completed. The project thus remained incomplete and cannot be taken forward. The members of the Petitioner have vacated their respective tenements in or about 2015 and for almost 10 years they are waiting for rehabilitation in their permanent alternate premises in the redeveloped premises.

3 In the aforesaid circumstances, the Petitioner in an Annual General Body Meeting held on 10th September 2023 resolved to terminate the Development Agreement dated 20th December 2010 as entered by the Petitioner with Meeti Developers. Consequent thereto, by a notice of the Petitioner's Advocate dated 20th December 2023 addressed to Meeti Developers the said Development Agreement as also the Power of Attorney, which was issued under the said Development Agreement were terminated by the Petitioner. We are informed that the termination of the Development Agreement by the Petitioner's notice dated 20th December 2023 is not challenged by the Meeti Developers.

4 In the aforesaid circumstances, the Petitioner appointed Respondent No.4 – Bendtech Metals Pvt Ltd. (for short 'Bendtech') as the new developers, and has executed a Development Agreement dated 15th March 2024 with Bendtech, thereby granting redevelopment rights qua the said land on terms and conditions as set out in the said Agreement. According to the Petitioner, Bendtech the new developer is required to now proceed to complete the project. However, Respondent Nos.2 and 3 (for short MCGM) is insisting for a no objection certificate from Meeti Developers to enable the Petitioner to proceed with the development at the hands of Bendtech - the new developer.

5 It is the Petitioner's case that admittedly there are proceedings against Meeti Developers which are pending before the NCLT. In such proceedings Resolution Professional, Mr. Ashok Kumar Golechha (Respondent No.6) is appointed. The Petitioner contends that in these circumstances, it is eminently

in the interest of the Petitioner that the project needs to be taken forward, and in the situation as Meeti Developers stand as on date, the no objection certificate from the Meeti Developers cannot be insisted by the MCGM. The Petitioner contends that it is in such context the prayers as made by the Petitioner are required to be granted by this Court.

6 Mr. Pai, learned counsel for the Petitioner has supported the Petitioner's case by submitting that certainly a prejudice is being caused to the Petitioner, as the development project is at a stand still for several years on account of the defaults of Meeti Developers, who is facing insolvency proceedings. It is submitted that hence, certainly Meeti Developers was unable to proceed to undertake the development, and in the said situation the Development Agreement entered with Meeti Developers dated 20th December 2010 was terminated on 20th December 2023, by the Petitioner. Hence the rights of Meeti Developers stand wholly severed to undertake the Petitioner's project. It is his submission that in any event that there is no challenge to the termination of the Development Agreement dated 20th December 2010 by Meeti Developers and in this situation, there cannot be any insistence on an NOC from Meeti Developers by the Municipal Corporation. In support of this contention, Mr. Pai has placed reliance on an order dated 21st March 2024 passed by Co-ordinate Bench of this Court in *Tagore Nagar Shree Ganesh Krupa Co-operative Housing Society Ltd. Vs. The State of Maharashtra & Ors.*¹ as also a decision of this Court in *Kher Nagar Sukhsadan Co-operative*

1 Writ Petition No.1349 of 2024 decided on 21st March 2024.

*Housing Society Ltd. Vs. The State of Maharashtra & Ors.*² to submit that in similar circumstances this court granted relief to the Petitioner therein who were similarly placed to that of the Petitioner in the present proceedings.

7 On the other hand a query made by us, as to whether Meeti Developers had assailed termination of the Development Agreement dated 20th December 2010, the learned counsel for the Resolution Professional is unable to assist the Court. The only submission he makes is that the resolution plan is already underway and the project in question would also form part of the resolution plan. He therefore, submits that the Court needs to take the same into consideration in passing orders on the present proceedings.

8 The Municipal Corporation has placed on record a reply affidavit of Mr. Rajendra H Pagar, Executive Engineer (Building Proposal) WS-I, in which we find that making a reference to the various permissions which were granted to the said project at the relevant time, it is acknowledged on behalf of the Municipal Corporation that now a new Development Agreement is been entered by the Petitioner with Bendtech, and a proposal is made for revalidation and extension of the necessary permission for which the new developer has been called upon to follow the procedure by making an online standard format application. However, in so far as the issue in regard to the NOC of the earlier developer is concerned, it has been fairly stated that although under the ease of doing business guidelines and the prevailing policy the NOC of previous developer is mandatory at the time of considering

2 Writ Petition No.3893 of 2024 decided on 11th September 2024.

validity of process adopted by terminating the earlier developer and ascertaining third party financial or legal rights created in the project, if any, it has been categorically stated that considering the decisions of this Court passed in **Tagore Nagar Shree Ganesh Kurpa Co-operative Housing Society Ltd.** (Supra) and **Kher Nagar Sukhsadan Co-operative Housing Soc. Ltd.** (Supra) which are cases similar to the present case, the application for redevelopment of the new developer will be considered on merits. The relevant paragraph in the affidavit is paragraph 7, which reads thus:-

“7. I say that considering the ratio and observations made in the order dated 21st March 2024 in the Writ petition No.1349 of 2024 and order dated 11th September 2024 in Writ Petition No. 3893 of 2024, the fact appears similar to the present case, accordingly, the application for redevelopment of the new developer will be considered on merits.”

9 Having considered the respective contentions as urged before us and having perused the record, we find substance in the contention as urged on behalf of the Petitioner. The first and foremost consideration before the Court would be that the redevelopment project ought not to be stalled and/or halted in the peculiar situation of an NOC being insisted by the MCGM from the erstwhile developers Meeti Developers as appointed by the Petitioner society. Undoubtedly, when the Petitioner society appointed Meeti Developers to redevelop its building and on terms and conditions which were set out in the Development Agreement, it was commercial contract as entered between the parties. Admittedly, there was a default on the part of the Meeti Developers in complying its obligations under the said contract and due to which the redevelopment suffered and or was delayed substantially for more than 7 years

as of now. In fact the redevelopment project was to be completed and all the members of the Petitioner were to be rehabilitated in the year 2018. It also appears to be quite clear that Meeti Developers was unable to repay its debts and hence is facing insolvency proceedings at the hands of its creditors.

10 In so far as the Petitioner is concerned, certainly such circumstances as faced by Meeti Developers was fatal to the project in question and causing a serious prejudice to the rights of the Petitioner and its members of a timely redevelopment and in the manner as agreed with the Petitioner under the Development Agreement dated 20th December 2010. Also, Meeti Developers had the occasion to categorically inform the Petitioner, at the relevant time, that it was not possible for it to undertake the Petitioner's project in view of the financial stress faced by it, to carry out the development and its obligations under the Development Agreement could not be taken forward. However, this did not happen.

11 We may observe that such tendency of the developers to block and/or to hang on the development projects, is also counter productive to any redevelopment and more particularly when persons awaiting redevelopment are left without a shelter over their head and are awaiting permanent rehabilitation in the redeveloped premises. Considering such issues, the different authorities also are required to be alive, to the needs of such persons who have appointed such developers who are unable to comply with their obligations to complete the project in a timely manner. Unfortunately it appears that there is no regulatory control to handle these situations which is a set back to any redevelopment scheme.

12 In any event, it is always open for the Meeti Developers as and when it is out of the insolvency proceedings to assert its rights, however, it cannot be ascertained at this stage, as to what would be the future of the insolvency proceedings.

13 Be that as it may, on a perusal of the orders passed by this court in Tagore Nagar Shree Ganesh Kurpa Co-operative Housing Society Ltd (Supra), this Court has taken a categorical view that such situations are required to be salvaged and the redevelopment project ought not to be stalled or delayed for want of NOC of the old developer. In such decision a co-ordinate Bench of this Court has made the following significant observations, while granting relief to the Petitioner therein, by directing that the NOC needs to be revalidated in favour of the newly appointed developer. Paragraphs 7, 8 and 9 of the said order are required to be noted which read thus:-

“7. This, we are sorry to say, is by no means an isolated case. In a city like ours there is precisely this widespread perversion of every concept of justice, equity and law. It is solemnly being argued that a Statutory provision meant to protect or meant to revive the fortunes of companies can come at the cost of residents of the city and of persons who have without homes, shelter and without financial means to acquire temporary alternate accommodation. We will not accept this under any circumstances. Corporate resuscitation will not be permitted at the cost of individual city residents' rights to have a redeveloped home and to receive transit rent.

8. The Government itself is alive to this situation. It has taken policy decisions in that regard. We need not visit those at this stage.

9. AA Estates itself is no stranger to this either. It has taken precisely this argument in an even more dramatic scenario, that of the collapse of an entire building called Govinda Tower many decades ago in 1998. AA Estates was before us as a Respondent in Interim Application (L) No 26072 of 2022 that we disposed of by our order and judgment dated 13th December 2023, reported as Nagesh Madhava Surana & Ors v State of Maharashtra & Ors. We dealt with precisely these submissions including the question of vested rights if any in AA Estates, Section 14 of the IBC and the consideration of justice and

equity inter alia from paragraph 43 onwards. Even there it was argued that possession could not be resumed because of a particular judgment of the Supreme Court. We addressed that question as well.”

14 Also in Kher Nagar Sukhsadan Co-operative Housing Soc. Ltd. (Supra) following the orders of the Division bench in Tagore Nagar Shree Ganesh Kurpa Co-operative Housing Society Ltd (Supra), the Court granted similar reliefs. The following observations were made by the court in similar circumstances :-

“24. We concur with the principles established in Manohar Ghatalia (supra) and Tagore Nagar Shree Ganesh Krupa Cooperative Housing Society Ltd (supra), and the decisions of the Coordinate Bench bind us. In these cases, the Court noted that if AA Estates (the developer in those instances) failed to meet its obligations such as paying transit rent and completing the construction within the specified timeline there is a complete failure of consideration, and no rights accrue to it. Consequently, no vested rights in the free sale component can be separated from the obligations under the Development Agreement (DA).

25. Additionally, as in the above cases, while AA Estates grinds its way through a CIRP, the result of which may be entirely uncertain and might well result in an order of liquidation rather than a successful resolution plan, these society members cannot be deprived of their basic and fundamental rights to shelter.”

15 Learned Counsel for the Resolution Professional cannot dispute the legal position as placed before us on behalf of the Petitioner. The project cannot be stalled indefinitely. We are unable to accept the contention of the learned counsel for the Resolution professional that the present project of the Petitioner forms part of resolution process in as much as there is no challenge to the termination. Once the rights of Meeti Developers in regard to the project itself stood terminated and/or are not subsisting, there is no question of this project forming part of the resolution process. In fact, such submission

is wholly contrary to the law. In the aforesaid circumstances, it is eminently in the interest of justice the petition is required to be allowed in terms of prayer clause (c) (Supra).

16 The necessary NOC needs to be issued to Bendtech / Petitioner within 10 days of this order being placed before the Competent Authority. Further, the appropriate building permission be issued subject to any other compliances.

17 Writ Petition stands allowed in the aforesaid terms. No costs.

[ARIF S. DOCTOR, J.]

[G.S. KULKARNI, J.]