

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.3448 OF 2024

- | | | | |
|----|--|---|------------------|
| 1. | Sunita Suresh Nandoskar |] | |
| | Aged: 71 years, Occ.: Nil, residing at |] | |
| | 803, Ashirwad Building No.30, Near |] | |
| | Chembur Gymkhana, Subhash Nagar, |] | |
| | Chembur, Mumbai 400 071 |] | |
| 2. | Kanaiyalal Manmohanrai Joshi |] | |
| | Aged: 67 years, Occ.: Retired, |] | |
| | residing with his son at C – 2, Jal |] | |
| | Darshan Apartment, River Valley, |] | |
| | Madona Colony Road, Near |] | |
| | Bhagvati Hospital, Borivali (W), |] | |
| | Mumbai 400103. |] | |
| 3. | Archana Dattaram Dabholkar |] | |
| | Aged: 57 years, Occ.: Housewife, |] | |
| | currently residing at Room No.64, ½ |] | |
| | Janta Colony, Adarsh Nagar, Worli |] | |
| | Village, Mumbai 400030. |] | |
| 4. | Balkrishna Jayram Chandoskar |] | |
| | Aged: 52 years, Occ.: Service, |] | |
| | residing at Saideep B – 102, Don |] | |
| | Lane, Babul pada, Nalasopara (East), |] | |
| | Dist. Palghar Pin: 401209. |] | |
| 5. | Ramchandra Waghoji Shinde |] | |
| | Aged: 73 years, Occ.: retired, having |] | |
| | address at c/o Shatrughna Waghoji |] | |
| | Shinde, Chawl No.5, Room No.3, |] | |
| | Upadhyay Chawl, Kajupada, |] | |
| | Borivali (East), Mumbai 400066 |] | ... Petitioners. |
| | V/s. | | |
| 1. | The State of Maharashtra, |] | |
| | through Government Pleader, OS, |] | |
| | High Court, Bombay. |] | |

- | | | |
|--|---|-----------------|
| 2. The Mumbai Building Repairs & |] | |
| Reconstruction Board, a MBR & R |] | |
| Board Unit, through its Chief Officer, |] | |
| having address at Grihnirman |] | |
| Bhavan, Kalanagar, Bandra (East), |] | |
| Mumbai 400051. |] | |
| | | |
| 3. Sarvesh Enterprises, through its |] | |
| proprietor – Mr. Swapnil Kote |] | |
| having address at 45, HY, Shop |] | |
| No.11, Lalbaugcha Raja Lane, |] | |
| Ganesh Nagar, Lalbaug, |] | |
| Mumbai 400012. |] | ...Respondents. |

Mr. Omar Khaiyam Shaikh for the Petitioners.

Mr. Aseem Naphade a/w. Adv. Sarthak Utangle, Adv. Saurabh Utangale i/by
Adv. Rohan Sawant for Respondent No.3

Ms. Gaurangi Patil, A.G.P, for Respondent No.7-State.

**CORAM : A. S. GADKARI AND
KAMAL KHATA, JJ.**

RESERVED ON : 21st January, 2025.

PRONOUNCED ON : 31st January, 2025.

JUDGMENT (Per Kamal Khata, J.):

1) This Petition is filed under Article 226 of the Constitution of India. The Petitioners-tenants are compelled to file the present Petition seeking directions against the MBR and R Board to implement Notice under Section 91-A of the Maharashtra Housing and Area Development Act, 1976 (for short “the MHADA Act”) to take over the project from the Developer and complete the same as per law.

2) The Petition alleges that rent or compensation has not been paid

since 2008 and nor have the Developers executed the Permanent Alternate Accommodation Agreement (“PAAA”) till date. Not only this, the Developer having also been given an opportunity by Order dated 1st April, 2024, have reneged on their assurances and committed default in not paying the rent and also in not executing the PAAA. The MHADA too has not taken any action in overseeing the Developer’s compliance with their assurances to the Court.

3) Mr. Shaikh representing the Petitioners argues that, in view of the breaches committed by the Developer not only of the conditions of MHADA but also of this Court's Order dated 1st April 2024, the Developers permission to continue the project must be cancelled and the project be taken over by MHADA as prayed for in the Petition.

4) Mr. Aseem Naphade appearing on behalf of the Respondent-Developer submits that, they have deposited rents payable with MHADA. Its for MHADA to disburse the same as per their eligibility. They have also lodged the PAAA with the authorities and are awaiting a response from them regarding the valuation of the property and adjudication of the stamp duties payable thereon. He therefore submits that they have not committed any breach or defaults as alleged by the Petitioner.

5) We have heard both counsel and perused the papers.

6) In view of Mr Naphade’s statement recorded above, and in view of the fact that, due to certain disputes regarding the rents payable to the

tenants that are pending decision with MHADA, we see no reason to entertain a Contempt Petition.

6.1) We therefore reject the Petition.

7) We however clarify that, MHADA must take appropriate action and oversee the implementation and completion of the entire project. MHADA will also look into the representations of the Petitioners-tenants, if any, regarding the rents payable to them as well as monitor the execution of the PAAA.

8) The Petition is disposed of in the aforesaid terms with no order as to costs.

(KAMAL KHATA, J.)

(A.S. GADKARI, J.)