

Jvs.

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

WRIT PETITION NO. 3530 OF 2024

Shramjivi Co-operative Housing Society Ltd.	}	
	}	Petitioner
Versus		
Union of India & Ors.	}	Respondents

Mr. Saket Mone with Ms. Anchita Nair i/b. Vidhi Partners for petitioner.

Mr. Parag A. Vyas with Ms. Samiksha Kanani and Mr. Ashok Varma for respondent no. 1 (UoI).

Ms. P. H. Kantharia, Government Pleader with Ms. Varsha Sawant, AGP for respondent no 2 (State).

Ms. Sneha Prabhu for respondent nos. 3 to 5 (MHADA).

Ms. Jaya Bagwe for respondent no. 6 (MCZMA).

**CORAM: ALOK ARADHE, CJ. &
BHARATI DANGRE, J.**

DATE: FEBRUARY 13, 2025

ORDER: (Per Chief Justice)

- 1.** Heard learned counsel for the parties.
- 2.** Rule. By consent of the learned counsel for the parties, petition is heard finally.
- 3.** By this writ petition, the petitioner, *inter alia*, assails validity of the impugned letter dated 13th March 2024 issued by respondent nos. 3 to 5-Maharashtra Housing and Area Development Authority (MHADA), by which the petitioner society has been informed that it cannot carry out redevelopment activity of their building as the same falls within 50 meters mangrove buffer zone in CRZ-I area.

4. Facts giving rise to filing of the writ petition, briefly stated, are that a building, namely, Building No. 157, Survey No.113(pt), CTS No.356(pt) at Hariyali Village, Kannamwar Nagar, Vikhroli East, Mumbai-400 083 (the petitioner society) was built by MHADA sometime in the year 1968. Sometime in 1983 allottees of the said building formed a co-operative housing society.

5. On 19th February 1991, Coastal Regulation Zone Notification 1991 (CRZ Notification 1991) was issued by the Ministry of Environment, Forest and Climate Change for the purpose of declaring coastal stretches as coastal regulation zones. Thereafter, on 27th September 1996, Coastal Zone Management Plan was identified, prepared and approved for the State of Maharashtra. A Coastal Regulation Zone Notification 2011 (CRZ Notification 2011) was issued by the Ministry of Environment, Forest and Climate Change on 6th January 2011 superseding the earlier CRZ Notification issued in the year 1991.

6. A Division Bench of this Court, in Public Interest Litigation No. 87 of 2006, while deciding chamber summons/applications therein, by an order dated 29th July 2015, *inter alia*, held that if a plot of land falls within 50 meters mangrove buffer zone but already it is part of an approved layout with infrastructure facilities within a municipal area or in an existing legally designated urban area as on 6th January 2011, it would be treated as falling in CRZ-II area. This order passed by the Division Bench of this Court was upheld by Hon'ble Supreme Court and the Special Leave Petition against the said order being SLP No. 533-539 of 2016 was dismissed by the order dated 20th January 2016.

7. The building of the society was in dilapidated condition. The petitioner society, therefore, approached the MHADA for redeveloping the building. Thereupon, by the communication dated 13th March 2024, MHADA informed the petitioner society that the petitioner cannot proceed with the redevelopment of the building as the same falls within 50 meters mangrove buffer zone in CRZ-1 area.

8. In the aforesaid factual background, the petitioner society has approached this Court by way of the present writ petition.

9. Learned counsel for the petitioner submitted that the petitioner society be permitted to submit an application to the Maharashtra Coastal Zone Management Authority (MCZMA) and the aforesaid authority be directed to decide the application submitted by the petitioner by taking into account the order dated 29th July 2015 passed by the Division Bench of this Court in PIL/87/2006.

10. Learned counsel for respondents 1 to 5 have not opposed the submission made by learned counsel for the petitioner. Learned counsel for respondent no. 6 (MCZMA) submitted that the application, which may be submitted by the petitioner society, shall be considered in accordance with the observations made in the order dated 29th July 2015 passed by the Division Bench of this Court in PIL/87/2006.

11. In view of the aforesaid submission and the facts and circumstances of the case, we permit the petitioner society to make an application to the MCZMA within a period of four weeks.

12. The competent authority in the MCZMA shall decide the application submitted by the petitioner society as expeditiously as possible and within a period of eight weeks from the date of receipt of the application in the light of the order dated 29th July 2015 passed by the Division Bench of this Court in PIL/87/2006.

13. It is made clear that, this Court has not expressed any opinion on merits of the case.

14. With the aforesaid directions, the writ petition is disposed of.

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(BHARATI DANGRE, J.)

(CHIEF JUSTICE)