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

WRIT PETITION NO. 1069 OF 2021

Shobha Gulhane & Anr. ...Petitioners
Versus
Maharashtra Housing & Area Development Board & Ors. ...Respondents

AND
WRIT PETITION NO.1556/2024

Mushtaq N. Ghojaria ...Petitioner
Versus
Raj Enterprises & Ors. ...Respondents

AND
WRIT PETITION NO.4196/2024

Mala Ramesh Vaswani ...Petitioner
Versus
Maharashtra Housing & Area Development Board & Ors. ...Respondents

AND
WRIT PETITION NO.4830/2024
WITH
INTERIM APPLICATION NO. 3224 OF 2024
IN

WRIT PETITION NO. 4830 OF 2024
WITH
INTERIM APPLICATION NO. 4530 OF 2025
IN
WRIT PETITION NO. 4830 OF 2024

Hemant Ramrao Bhojane ...Petitioner
Versus
Maharashtra State Government & Ors. ...Respondents

AND
WRIT PETITION NO.194/2025

Mannan Yusuf Pacha ...Petitioner
Versus
Limrass Construction Pvt. Ltd. ...Respondent

AND
WRIT PETITION (L) NO.323/2025

Dilip A. Shivalkar ...Petitioner
Versus
The Mumbai Board Repairs and

Reconstruction Board & Ors.

...Respondents

AND

WRIT PETITION NO.3055/2025

Savitri Sudhakar Gavkar

...Petitioner

Versus

The MHADA & Ors.

...Respondents

AND

WRIT PETITION NO.3150/2025

Kaushik M. Asher

...Petitioner

Versus

Mumbai Building Repairs and Reconstruction

Board & Ors.

...Respondents

AND

WRIT PETITION NO.4219/2025

Abid Allahrakha Kheradia

...Petitioner

Versus

MHADA & Ors.

...Respondents

AND

WRIT PETITION (L) NO.30668/2025

Vijay Chalke

...Petitioner

Versus

MHADA & Ors.

...Respondents

AND

WRIT PETITION (L) NO.32037/2025

Shivaji B. Bhav

...Petitioner

Versus

Vice President and Chief Executive

Officer (MHADA) & Ors.

...Respondents

In WRIT PETITION NO./1069/2021:

Mr. Altaf Khan i/b. Sunil Yadav for Petitioner.

Mr. P. G. Lad a/w Manisha Jagtap, Akshay Shinde, Anjali Maskar for Respondent-MHADA.

WRIT PETITION NO./1556/2024 :

Mr. Jeet Gandhi for the Petitioner

Adv. P.G. Lad aw Adv. Manisha Jagtap aw Adv. Akshay Shinde aw Adv. Anjali Maskar for MHADA.

Adv. Anjali Ghuge i/b Mrs. Komal Punjabi for Respdt (BMC/ MCGM).
Adv. Vikramjeet Garewal a/w Adv V.A. Joshi, Adv. Vir Patel i/b M/s Chitnis Vaithy & Co. For Respdt No. 1.

WRIT PETITION NO./4196/2024 :

Adv. Prashant G. Karande a/w Adv. Praful S. Pawar, Adv. For Petitioner.
Adv. P.G. Lad aw Adv. Manisha Jagtap aw Adv. Akshay Shinde aw Adv. Anjali Maskar for MHADA.
Adv. Anjali Ghuge i/b Mrs. Komal Punjabi for Respdt (BMC/ MCGM)
Adv. Chirag Balsara i/b Pratap Manmohan Nimbalkar for Respdt No. 5 & 6.

WRIT PETITION NO./4830/2024 :

Mr. Hemant R. Bhojane, Petitioner in Person.
Adv. P.G. Lad aw Adv. Manisha Jagtap aw Adv. Akshay Shinde aw Adv. Anjali Maskar for MHADA.
Vishal Thadani, Addl. GP for State of Maharashtra.
Adv. Shamiyana H. i/b Arhat Legal for Respdt No. 7.

WRIT PETITION NO./194/2025 :

Asadali Z. Mazgoanwala a/w Syed Ali Kazmi a/w Tanvi Shah i/b Asadali Z. Mazgaonwala & Syed Ali Kazmi. Adv. For Petitioners.
Adv. P.G. Lad aw Adv. Manisha Jagtap aw Adv. Akshay Shinde aw Adv. Anjali Maskar for MHADA.

WRIT PETITION NO.L/323/2025 :

Adv. Induprakash Tripathi i/b C.K. Tripathi & Faisal Memon for Petitioners.
Adv. P.G. Lad aw Adv. Manisha Jagtap aw Adv. Akshay Shinde aw Adv. Anjali Maskar for MHADA.

WRIT PETITION NO./3055/2025 :

Adv. Haamid Ahmad i/b M Z & Associates for Petitioner.
Adv. P.G. Lad aw Adv. Manisha Jagtap aw Adv. Akshay Shinde aw Adv. Anjali Maskar aw Ms. Nikita Jacob a/w adv. Kinjal Khandelwal for MHADA.
Mr. Prashant Kamble, AGP for State of Maharashtra.

Sr. 612 WRIT PETITION NO./3150/2025 :

Adv. Induprakash Tripathi i/b C.K. Tripathi & Faisal Menon, for Petitioners.
Adv. P.G. Lad aw Adv. Manisha Jagtap aw Adv. Akshay Shinde aw Adv. Anjali Maskar for MHADA.

Sr. 614 WRIT PETITION NO./4219/2025 :

A.H. Khatri with Zakir Khan i/b Khatri Legal Venture for Petitioners.

Adv. P.G. Lad aw Adv. Manisha Jagtap aw Adv. Akshay Shinde aw Adv. Anjali Maskar for MHADA.

Ms. Lavina Kriplani, AGP for State of Maharashtra.

Sr. 615 WRIT PETITION NO.L/30668/2025:

Adv. V. Kamble i/b Shivanisinh Deshmukh for the Petitioners.

Adv. P.G. Lad aw Adv. Manisha Jagtap aw Adv. Akshay Shinde aw Adv. Anjali Maskar for MHADA.

Ms. Sneha Patil a/w Ms. Samita Malenkar, Mr. Hrishikesh Joshi, i/b Maniar Srivastava Associates, Adv. For Respdt No. 2.

Mr. Arun Panickar, Adv. For Respdt No. 3.

Sr. 616 WRIT PETITION NO.L/32037/2025 :

Mr. Aditya Lele, a/w Adv. R.U Deo for Petitioner.

Adv. P.G. Lad aw Adv. Manisha Jagtap aw Adv. Akshay Shinde aw Adv. Anjali Maskar for MHADA.

Adv. Sunny Shah a/w Adv. Viral Dilip Shukla, Adv. Priti Shukla, Adv. Madhusudan Dani i/b Shukla & Associates, for Respdt No. 3.

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

DATE: 23rd DECEMBER 2025

P.C.

1. In pursuance of our order dated 17th December 2025, Mr. Rupesh Raut, Executive Engineer of Respondent No.2-MHADA has filed an affidavit setting out the mechanism being adopted by MHADA in regard to the complaint received by the Competent Authority of the MHADA in regard to the transit rent. The affidavit has comprehensively dealt with the issues reaching the Competent

Authority. Thus it is necessary to note the contents of the affidavit which read thus:-

“2. I say that the grievances with regard to non-payment of transit rent is in respect of redevelopment under DCR 33(7) only. I say that redevelopment under DCR 33(7) is on joint request of landlord and more than 51% tenants/occupants, as buildings were cess buildings and the incentive FSI is available for the redevelopment under DCPR 33(7). Therefore, NOC from Repair Board is necessary.

3. I say that as per the Provisions of DCPR & MHAD Act, the role of Repair Board is very limited to certification of tenants/occupants & area occupied by them in old cess building and to confirm that all occupants are rehabilitated in redeveloped scheme. I say that during the process of redevelopment, Developer is selected by tenants/occupants by giving the majority consents. All the terms and condition are finalized between the Developers & Owners/Tenant. MHADA neither have any say nor have any role as per the legal provision in completing the said

I. Nature of Complaints received:-

- Non-payment of Transit rent by the Developer as per MOU / Permanent Alternate Accommodation Agreement
- Difference of opinion about Quantum of rent paid/to be paid (Calculations).
- Disputes regarding Quantum of Rent and Interest on pending rent.
- Non-payment of annual increase in rent as per MOU/Permanent Alternate Accommodation Agreement
- Pending Transit rent by new Developer who takes over the project from old Developer.
- Non-payment of Transit Rent in time by Owner/Developer due to financial constraints.
- Disputes regarding the date from which rent would start.

- Denial by tenants to accept rent, if the quantum is not as per their calculations.
- Non-payment of Transit Rent due to internal disputes of tenancy/occupancy.
- Non-payment of Transit Rent due to legal heirship of the deceased occupant.
- Pendency of Rent due to dispute in area to be considered for the rent.
- Disputes regarding non-payment of Transit rent of Covid Period.
- Denial to pay rent by NOC holder if tenancy suit is pending in the Hon'ble. Civil Court.
- Developers insists on paying pending Transit rent at the time of physical possession of rehab tenement.

II. Procedure followed by MBRRB for addressing the Complaints:-

- On receipt of complaints from the tenants/occupants concerned Executive Engineer forward the complaints to the Owner/Developer for compliance.
- Some of the tenants/occupants approach the office of Chief Officer/MBRRB for pending rent and file complaint against the Owner/Developer. On receipt of such complaints and in order to resolve the issues Joint-hearing is given by Chief Officer/MBRRB. In most of the cases the Owner/Developer agrees to pay the pending rent to the tenants/occupants and accordingly Speaking Orders are passed by Chief Officer/MBRRB wherein Owner/Developer is directed to clear the pending rent within specific time period. During these proceeding MHADA/MBRRB tries to mediate & reconcile difference between the parties.

III. Remedies resorted by MHADA/MBRRB:-

- Issue Show Cause Notice to the Owner/Developer directing to pay the pending Transit rent.
- To take Joint Hearing of Owner/Developer and tenants/occupants and resolve the issue and to pass Speaking Order directing to Owner/Developer to clear the pending Transit rent within stipulated time.

- To issue Stop Work Notice.
- Cancellation of NOC
- To initiate action u/s 91-A of MHAD Act and issue Notice to the Owner/Developer directing to pay the pending Transit rent to tenants/occupants.
- If Owner/Developer fails to comply the Notice u/s 91-A, then proceed further for acquisition of property. On receipt of permission for acquisition from Govt. to acquire the property and complete the scheme. In the meantime if tenants/occupants request MBRRB for Transit accommodation, then MBRRB provide temporary transit accommodation to the tenants/occupants in Board's Transit Camp.
- To file F.I.R. against defaulter Owner/Developer for Criminal Breach of Trust.

4. I say that there are approximately about 100 complaints have been received. I say that Complaints were adjudicated by Chief Officer, M.B.R.&R. Board earlier. Considering the number of Complaints and need to redress these complaints expeditiously and observations of this Hon'ble Court in the S.R.A.'s matters, Vice President, Chief Executive Officer MHADA has issued Circular dated 16th December, 2025 thereby authorised four Deputy Chief Engineers of four Zone decide complaints OVT. Cexpeditiously

5. I say that further to steam line process of deciding tenant rent expeditiously V.P. & C.E.O., MHADA has directed to create online portal enabling all occupants to make complaints about non-payment of transit rent so that the complainants need not visit the MHADA office. On this portal complainant can lodge their complaint and upload relevant paper. The applicant will be automatically assign to the concern Deputy Chief Engineer for consideration. The Principle approval to create online portal is given by Hon. Vice President & Chief Executive Officer/MHADA on 18/12/2025 and the work of developing online portal is in process.

6. Also to assist Dy. Chief Engineer in deciding cases pertaining to disputed claims of rent, the help of empaneled certified auditors of co-operative department will also be sought.

7. I say that the Vice President/Chief Executive Officer MHADA has already issued direction to dispose off all pending complaints received as of 25 on or before 31st March, 2026.

8. Accordingly, Dy. Chief Engineer of Zone I, II, III & IV have issued Notices for hearing in 65 cases have fixed up hearing on last week of December & First Week of January.

9. I say that as, cancellation of NOC is a drastic remedy which needs be invoke sparingly on the complaints of few complaints, as the project is required to be completed for early rehabilitation of tenants/occupants. In that case after adjudicating the grievances of the complainants about non-payment of transit rent, direction are issued the NOC holder to pay the transit rent is taken and in case of non-compliance by NOC holder other remedy which has been stated above will be taken up by MBRRB and in exceptional cases action for cancellation of NOC will be taken.

10. I say that, we would like to place on record that, if NOC is cancelled as a routine, due to non payment of rent, then the issue of redevelopment becomes a concern. Appointment of new Developers by the tenants & most importantly their willingness to take over the rent arrears as liability becomes a contentious issue, because due to delay in construction & the increased financial implications, for completion of project the financial viability with the liabilities becomes a major issue for any new Developer to take over the incomplete project. Hence, MBRRB adopts the process of mediation in most of these appeal cases to ensure that the redevelopment project is completed & the tenants who have been shifted to transit camps, or being paid rent, get the tenement on ownership & shift to a house of their own which is bigger objective.”

2. We appreciate the stand taken by the MHADA. We may observe that in any cases where there are senior citizens, the Competent Authority of MHADA would adhere to the orders passed by this Court on 7th March 2024 in the proceedings of **Jayashree Dilip Dholi Vs. The Deputy Registrar of Co-operative Housing Societies, T Ward, Mulund West [WRIT PETITION NO. (L) No. 2586 of 2024]** and followed recently in the orders dated 8th December 2025 in the case of **Mehmooda**

Ali Husain Hashmi Vs. Slum Rehabilitation Authority & Ors. (WRIT PETITION NO. (L) No. 37903 of 2025). This would equally apply to applicants who are seriously ill, to whom utmost priority must be given, as well as to senior citizens. This position has also been accepted by the State Government, which has issued a Government Resolution for the constitution of a Special Cell, already constituted by MHADA.

3. In this view of the matter, and while keeping all contentions of the parties open to be urged before the Competent Authority of MHADA, such complaints shall be filed within two weeks from today. The same shall be dealt with as expeditiously as possible and in the manner as directed by us. All such grievances shall be addressed within a period of 15 days, extendable by a further period of 15 days, strictly in accordance with law. All contentions of the parties are expressly kept open.

4. Needless to observe that in the event any orders being passed by the Competent Authority, it is open to the parties to take recourse of the appropriate remedy as may be available in law to them either under the statute or as may be permissible in law.

5. We further clarify that the Constitution of these Special Cells is to enable all the stakeholders to resolve and mitigate their disputes effectively and in a time bound manner. The formation of these Special Cells should not give rise to further litigation and all the issues which come up before these cells should be resolved in the spirit for which the legislation has been enacted.

6. We have not delved into individual disputes and facts and have therefore left it to the Special Cells Authority to decide the issues in accordance with law. However, before parting, we may also observe that all stakeholders are required to cooperate. In the event of non-cooperation, the Special Cell, with the concurrence and approval of the Competent Authority, MHADA, shall have the authority to pass even drastic orders. The powers so exercised shall be those conferred upon the Competent Authority, MHADA under law, which are paramount and must be exercised after due consideration of the facts of each case. Accordingly, the Special Cell shall be permitted to pass appropriate orders upon obtaining the approval of the Competent Authority, MHADA, and any order passed by the Special Cell shall be deemed to be an order passed by the MHADA.

7. With the aforesaid observations, the proceedings stand disposed of keeping open all contentions of the parties to be urged before the respective special cells. As also any person aggrieved by any such orders would have remedies open to him as noted hereinabove to approach the appropriate statutory forum and/or as law may permit.

8. In view of disposal of the Petitions, nothing survives in the above Interim Applications and the same stand disposed of accordingly.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)