

Prajakta Vartak

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

WRIT PETITION (L) NO. 22435 OF 2025
WITH
INTERIM APPLICATION (L) NO. 36312 OF 2025

M/s. Kalikund Developers & Anr. ...Applicants/Petitioners
Versus
Maharashtra Housing And Area
Development Authority And Ors. ...Respondents

Mr. Siddhesh Bhole with Ms. Gauri Bandre i/b. SSB Legal & Advisory for
Applicants/Petitioners.
Mr. Akshay Shinde for Respondent No.1.
Mr. Kalpesh Joshi with Mr. Darshil Shah i/b. Kalpesh Joshi Associates for
Respondent Nos.4 & 5.

CORAM: G. S. KULKARNI &
AARTI SATHE, JJ.
DATE: 24 DECEMBER 2025.

P.C.

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

“The Petitioners, therefore, pray that in the circumstances aforesaid, this
Hon'ble Court may be pleased to call for the records / papers /
proceedings pertaining to the present Petition and this Hon'ble Court be
pleased to:

A. Issue an order, direction and/or writ in the nature of certiorari or
any other appropriate writ, order or direction under Article 226 of the
Constitution of India, to go into the legality and propriety of the (i)
Impugned Order dated 28th May 2025 vide No. R/NOC/F-
1855/5300/MBRRB-2025 passed by the Respondent No. 1, (ii) Further
Order dated 27th June 2025 bearing No.
R/NOC/F-1855/6332/MBRRB-2025 issued by Respondent No. 2 and
(iii) Impugned Show Cause Notice dated 10 July 2025 bearing
No.R/NOC/Show Cause Notice/F-1855/6658/MBRRB-2025 issued by
NO the Respondent No. 2 to the Petitioners and to quash and / or set
aside them aside;

B. Issue an order, direction and/or writ in the nature of mandamus
or any other appropriate writ, order or direction under Article 226 of the
Constitution of India, to call for all the records and documents in respect

of the (i) Impugned passed by the Respondent No. 1, (ii) Further Order dated 27th June 2025 bearing No. R/NOC/F-1855/6332/MBRRB-2025 issued by Respondent No. 2 and (iii) Impugned Show Cause Notice dated 10 July 2025 bearing Order dated 28th May 2025 vide No. R/NOC/F-1855/5300/MBRRB-2025 No.R/NOC/Show Cause Notice/F-1855/6658/MBRRB-2025 issued by the Respondent No. 2 to the Petitioners;

C. Pending hearing and final disposal of this Writ, this Hon'ble Court be pleased to stay the operation and effect of the

(i) Impugned Order dated 28th May 2025 vide No. R/NOC/F-1855/5300/MBRRB-2025 passed by the Respondent No. 1;

(ii) Further Order dated 27th June 2025 bearing No. R/NOC/F-1855/6332/MBRRB-2025 issued by Respondent No. 2; and

(iii) Impugned Show Cause Notice dated 10 July 2025 bearing No.R/NOC/Show Cause Notice/F-1855/6658/MBRRB-2025 issued by the Respondent No. 2 to the Petitioners;

D. for interim and ad-interim reliefs in terms of above prayers;

E. for costs;

F. such further and other reliefs be granted as the nature and circumstances of the case may require.”

2. In our opinion, MHADA, in issuing the impugned show cause notice in the present case, has acted completely without application of mind and without verification of the record in regard to the construction being undertaken by the petitioners. This is in respect of a building which was originally proposed to be of a greater height of 32 floors and which is now confined to 30 floors. It is the contention urged on behalf of the petitioners that on confining the height to 30 floors, fungible FSI was not utilized. Consequently, it is submitted that the area which could have earlier been made available, for which FSI itself was not utilized, could not have been accorded as a benefit to the different tenants who were in occupation of the tenements earlier.

3. Insofar as respondent nos.4 and 5 are concerned, the petitioners have already offered two flats, the details of which are set out in paragraph 7 of the

additional affidavit of Vijay Chandan, namely, Flat Nos.1403 and 1702 i.e. 1054 sq. ft. carpet area each (2108 sq. ft. carpet area).

4. Mr. Kalpesh Joshi, learned counsel for respondent nos.4 and 5, on instructions, submits that such flats are not of the required area to which his clients are entitled, and therefore, it would not be possible for respondent nos.4 and 5 to take possession of these flats. We accept the statement. Whatever agreement exists in respect of the permanent alternate accommodation to be provided to respondent no.4 is completely a private arrangement emanating from the agreement entered into between the petitioners and respondent no.4. There cannot be any adjudication on such issues in proceedings of a writ petition. Suffice it to observe that MHADA ought to have taken all necessary precautions before taking the impugned action against the petitioners.

5. In the aforesaid circumstances, we are inclined to dispose of this petition by directing that MHADA shall not take any coercive action pursuant to the show cause notice or the impugned order dated 28 May 2025 against the petitioner, as the dispute is clearly a private dispute. All rights of the petitioners and respondent no.4 for adjudication in appropriate proceedings before the Civil Court are expressly kept open.

6. We record the statement made on behalf of the petitioners that the flats as noted above shall remain reserved for allotment to respondent no.4 and that no third party rights in that regard shall be created till appropriate orders are passed in any civil suit which may be filed by the petitioners or respondent no.4. All rights and contentions of the parties are expressly kept open. We do not find it

appropriate to express any opinion on the rival contentions regarding entitlement of the said flats.

7. Needless to observe that it would be open to respondent no.4 to enter into any settlement with the petitioners.

8. The petition stands disposed of in the aforesaid terms.

9. Interim application would not survive. It is accordingly disposed of.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)

corrected as per the speaking to minutes order dated 21.01.2026