

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

WRIT PETITION NO. 3110 OF 2025

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Fatima Ahmed Mulla & Ors.

...Petitioners

Versus

Maharashtra Housing and Area

Development Authority (MHADA) & Ors.

...Respondents

Mr. Dilip H. Shukla for Petitioner.

Mr. P. G. Lad a/w Ms. Sayali Apte, Anjali Maskar for Respondent-MHADA.

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

DATE: 30th September 2025

P.C.

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

“a) This Hon’ble Court may allow the present Petition.

b) That this Hon’ble Court be pleased to issue a Writ of Certiorari or any other appropriate writ in the nature of certiorari by quashing and setting aside Impugned Notice dated 29th October 2024 (herein referred to as “said Impugned Notice”) issued by the Respondent No.3 under Section 79-A of the Maharashtra Housing and Area Development Act, 1976, issued on the purported ground that the said building is in a dilapidated and dangerous condition;

c) Pending the hearing and final disposal of the present petition, this Hon’ble Court be pleased to stay the effect of the said Impugned Notice dated 29th October, 2024 (Exhibit-“A”) passed by the Respondent No.2 till final disposal of the present petition;

d) for ad-interim reliefs in terms of prayer (c) above;”

2. On the earlier occasion i.e. on 9th September 2025, a detailed order came to be passed by the Court, which reads thus:-

“1. This writ petition is filed by the landlords praying that the impugned notice dated 29 October 2024 issued to the petitioners by respondent no.3 under Section 79-A of the Maharashtra Housing and Area Development Act, 1976 be quashed and set aside.

2. Mr. Lad, learned counsel for MHADA would submit that insofar as the notices which are issued prior to 03 April 2025 i.e. such notices being issued prior to the decision of this Court in Vimalnath Shelters Pvt. Ltd. & Ors. vs. State of Maharashtra & Ors.1 are kept in abeyance as informed to the Court in the proceedings of Javed Abdul Rahim Attar & Ors. vs. The Maharashtra Housing & Area Development Authority & Ors.2. We accept the statement that the impugned notice in the present case is accordingly kept in abeyance. We are also informed that the decision of this Court in Javed Abdul Rahim Attar & Ors. (supra), Vimalnath Shelters Pvt. Ltd. (supra) and Pramod Vishwanath Saraf & Ors. vs. The State of Maharashtra & Ors.3 are assailed by the MHADA before the Supreme Court, and such proceedings are pending.

3. Mr. Lad has also brought to our notice a communication dated 09 July 2024 (Exhibit-C, page 58 of the petition) addressed to the petitioners as also the tenants/occupants of the building in question whereby they are called upon to pay

excess amount of Rs.40,66,288/- which is statutorily required to be paid by these persons.

4. Mr. Shukla, learned counsel for the petitioners has fairly stated that although the building has 65 tenants, the petitioners in their capacity as the landlords are ready and willing to deposit 50% of the amount within two weeks from today. Insofar as the balance amount is concerned, the tenants would be required to pay the same immediately. The tenants have formed the association namely Chandan Mansion Tenant Association (respondent no.4). The tenants cannot take a position that they would occupy the premises

and would not pay the excess amount so as to undertake repairs. Accordingly, the tenants would be required to deposit the balance amount with the MHADA.

5. The present order be informed by the petitioners to the association who is yet to be represented in the present petition, as none appears for them, we issue notice to respondent no.4, returnable on 23 September 2025 (H.O.B.). The petitioners are permitted to serve respondent no.4 by private service by all permissible modes and place on record an affidavit of service.

6. In the event despite service of notice respondent no.4 is not represented on the adjourned date of hearing, the Court shall proceed to hear the parties as appearing and pass appropriate orders.

7. Mr. Lad, on instructions, submits that the building is in dilapidated condition. We order that the occupants of the said building may continue to occupy their respective tenements at their own risk and consequences and shall not hold the respondents and/or any other third parties liable for any civil or criminal action, in the event of any untoward incident of collapse of the building.

8. Compliance in regard to the deposit of excess amount be informed to the Court on the adjourned date of hearing.”

3. In pursuance of the aforesaid order passed by this Court, the Petitioners have already deposited with MHADA 50% of the excess amount which was quantified at Rs. 40,66,288/-. Insofar as the share of the tenant's is concerned, it is Respondent No.4/the tenants association which needs to respond to the Petitioner's case and the contentions as urged on behalf of MHADA. Respondent No.4/association has not appeared, although served. Affidavit of service filed by Mr. Ravindra Tambe, is placed on record evidencing service on Respondent No.4-Association.

4. It appears that the tenants are completely non-cooperative, especially considering that the representative of the tenants-association refused to accept the notice and returned it after reading the contents of the same as urged before us. Also there is no appearance filed on behalf of Respondent No.4. Thus, it is evident that the tenants are not willing to contribute any excess amount, being the cess required for the building's repair costs, while the landlord is fulfilling all his obligations.

5. In this view of the matter, we are of the opinion that MHADA should inform the Petitioners of the amounts they are now required to pay, without relying on the tenants for their contribution, as the tenants are already in default. The tenants cannot be in a position that they would not co-operate in repairs and maintenance of the building which is one of the statutory obligation. In fact it is such reckless attitude of the tenants which has deteriorated the condition of the building. We are informed that civil suits are already pending against the tenants which are also required to be taken to their logical conclusion and as expeditiously as possible and more importantly considering such limited rights of the tenants and the utter noncompliance and breach of their obligation not only to their peril but others. The Petitioners are always at liberty to move an appropriate application for early hearing of the pending suits.

6. In the aforesaid circumstances, as now the repair work would be required to be undertaken and as the 50% of the excess amount as quantified by the MHADA, has already been deposited by the Petitioners; the further deficit also can now be

deposited by the Petitioners, after the Petitioners receive appropriate intimation on the further amounts which would be required to be deposited, adjusting the excess amounts, if any, available with MHADA.

7. In the aforesaid circumstances, we dispose of the Petition by permitting the MHADA to undertake appropriate repair work, as expeditiously as possible. Let such work commence within two months from today and the same to be completed within a period of six months. All contentions of the parties in that regard are expressly kept open.

8. Needless to observe that the impugned notice issued under Section 79-A of the MHADA Act, 1976, is already kept in abeyance in terms of the orders passed by this Court, if any further steps are required to be taken in that regard, if the occasion so arises, the Petitioner shall be issued appropriate notice by the MHADA.

9. Petition is disposed of in the aforesaid terms. No costs.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)