

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

WRIT PETITION NO. 3152 OF 2025

Delta Hights (Amin Building) Co-op.

Hsg. Soc. Ltd. (Proposed) & Ors.

...Petitioners

Vs.

The State of Maharashtra & Ors.

...Respondents

Mr. Jitendra B. Mishra with Mr. Rupesh Dubey i/b. Nilu Mishra for Petitioners.

Mr. Prashant Kamble, AGP for State.

Ms. Manisha Jagtap for MHADA.

Ms. K. H. Mastakar i/b. Ms. Komal Punjabi and Ms. Smita Tondwalkar for BMC.

Mr. Vidhya N. Shet i/b. Vaid & Associates for Respondent No.5.

Mr. Amit G. Dubey i/b. Mr. Ashok M. Saraogi for Respondent No.6.

CORAM: G. S. KULKARNI &
ARIF S. DOCTOR, JJ.

DATE: 14 AUGUST, 2025.

P.C.

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

“(a) this Hon’ble Court be pleased to issue a Writ of mandamus or any other appropriate writ, direction and order, thereby directing the Respondent Nos. 2 and 3 to issue No objection Certificate (NOC) for redevelopment of Amin Building situated at City Survey No. 235 of Byculla Division, Plot No. 94-100, M.A. Road (Clare Road), Nagpada Junction, E Ward of Mumbai Municipal Corporation, Mumbai-400 008, as per the proposal submitted and pending since the year 2018.

(b) This Hon’ble Court be pleased to quash and set aside Notices dated 21.11.2024 (Exhibit F hereto) and 15.05.2025 (Exhibit I hereto) issued by the Respondent No.3.

(c) Alternatively, this Hon’ble Court be pleased to waive period of six month as provided under Notice dated 15.05.2025 in view of provisions of Section 79A (1a) of the Maharashtra Housing & Area Development Act, 1976 and to process the proposal for redevelopment of Amin building as submitted by the Respondent No.6.

(d) this Hon’ble Court be pleased to direct the Respondent Nos.5 and 6 to take appropriate necessary steps to re-develop the Amin Building

pursuant to irrevocable consents signed by 100% tenants/occupants of Amin Building and to provide permanent as well as temporary alternate accommodation in lieu of their respective premises in Amin Building in accordance with law and subject to eligibility of the tenants/ occupants.”

2. Affidavit in reply filed on behalf of respondent nos.2 and 3 is taken on record.

3. As fairly pointed out by Mr. Mishra, learned counsel for the petitioners, the prayers in regard to challenge to Section 79-A notice dated 15 May 2025 would not survive in view of MHADA taking a clear position in the proceedings of Writ Petition (L.) No. 34771 of 2024 (**Javed Abdul Rahim Attar &Ors. vs. The Maharashtra Housing & Area Development Authority & Ors.**) that the notices which are issued after the decision of the co-ordinate Bench of this Court in **Vimalnath Shelters Pvt. Ltd. & Ors. vs. State of Maharashtra & Ors.**¹, are being withdrawn. Thus these prayers have become infructuous as the notice itself stands withdrawn by MHADA.

4. Insofar as the other reliefs in regard to the redevelopment of the building are concerned, it appears to be a common concern of the petitioners/tenants as also respondent no.5/landlord that redevelopment needs to be taken up. However, it appears that respondent no.6/developer was appointed by the tenants and it is the landlord's contention that for many years this developer also did not positively respond. Be that as it may, we do not intend to delve on such issues. If the landlord as also the tenants are of the opinion that redevelopment is to be taken forward and more importantly considering the structural audit reports which are obtained by the parties which depict that the building has become dangerous, it is

¹ 2025 SCC OnLine Bom 1109, [W.P. (O.S.) No. 477 of 2025]

of urgency that the parties do not get entangled in disputes and the redevelopment proceeds further without any delay. This is beneficial to both the parties.

5. We accordingly accept the statement as made on behalf of the landlord that appropriate steps in regard to appointment of developer would be taken in a consensual manner after having appropriate deliberation with the tenants, so that all modalities in regard to the area and other requirements can be satisfied and an appropriate proposal can be moved by respondent no.5 before MHADA. In the event such proposal is moved, MHADA shall consider such proposal as expeditiously as possible and in any event within a period of 15 days from the date of submission of such proposal. All contentions in that regard are expressly kept open.

6. The parties are directed to have a meeting in regard to appropriate resolution of the disputes within 15 days from today for which the parties need to meet on 20 August 2025 at 05.00 p.m. The meeting would be only between the tenants and the respondent/landlord. We also keep open all contentions of respondent no.6/developer, if he has any contractual obligation or any grievance in regard to his assignment under the contract entered with the tenants.

7. The petition stands disposed of in the aforesaid terms, however keeping open all contentions of the parties. No costs.

(ARIF S. DOCTOR, J.)

(G. S. KULKARNI, J.)