

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

WRIT PETITION NO. 4724 OF 2025

Tagore Nagar Shree Ganesh Krupa Co-operative
Housing Society Limited ...Petitioner
Versus
State Of Maharashtra & Ors. ...Respondents

Mr. Raj Patel a/w Ms. Deeksha Jani i/b Jani & Parikh for Petitioner.
Mr. Mohit Jadhav, Add. G. P. for State.
Mr. Akshay Patil a/w Mayur Thorat for Resettlement No.8.
Ms. Aditi Bhat for Resettlement No.9.
Mr. P. G. Lad for Resettlement Nos. 6 & 7.

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

DATE: 09 DECEMBER 2025

P.C.

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

“a. issue a Writ of Mandamus or a Writ in the nature of Mandamus, or any other appropriate Writ, Order, or Direction, directing Respondent Nos. 2 to 7 to forthwith comply with and give full effect to their own Order dated 6th June 2025 (at Exh ‘C’) by taking all necessary steps, inter alia, to demolish and remove the said illegal structure on the said land belonging to the Petitioner, within such period as this Hon'ble Court may deem fit and appropriate;”

2. Admittedly, the petitioner is the lessee of a plot of land allotted to it by the MHADA. There were three buildings which had become dilapidated, out of which one building is stated to have collapsed in or about 2023. The two other buildings

have already been vacated. The petitioners now intend to proceed with redevelopment. However, before the process could commence, there is some dispute which has arisen in regard to the alleged encroachment of the petitioners plot of land and which is stated to be an encroachment by respondent No.8 – Sarvajanik Ganeshotsav Samiti, Tagore Nagar who are represented by Mr. Akshay Patil, learned counsel.

3. The petitioner approached the Competent Authority of the MHADA as also approached this Court with such grievances in the proceedings of Writ Petition No.3558 of 2024, which came to be disposed of in terms of an order dated 21 August 2024. We note the said order, which reads thus:

"1. Heard learned Counsel for the parties.

2. The Petitioner seeks a writ of mandamus on Respondents Nos. 1 to 5 to remove the alleged illegal structure and/or alleged encroachments on the Petitioner's land to enable the Petitioner and/or 8th Respondent to take further steps in terms of the Development Agreement dated 21st January 2023 executed with the 8th Respondent.

3. At the outset, in this Petition, this Court cannot be concerned with private agreements between the Petitioner and the 8th Respondent. However, since there is an allegation that the 7th Respondent has carried out some illegal constructions, the MHADA, the statutory authority in this case, must look into the Petitioner's complaints and take action if there is merit in such complaints.

4. Ms Madhvi, the Counsel for MHADA, places on record a notice dated 26th March 2024 issued by the MHADA to the 7th Respondent regarding the alleged illegal constructions carried out by the 7th Respondent. She states that to date, the 7th Respondent has yet to respond to this notice, and the MHADA is prepared to dispose of this notice following law and after complying with principles of natural justice within the timeline that this Court could set out.

5. Ms Patil, learned Counsel for the 7th Respondent, states that the 7th Respondent has yet to receive such notice. However, now that such notice is served in the Court, the 7th Respondent will respond to such notice within two weeks from today.

6. Accordingly, we direct the MHADA to take its notice dated 26th March 2024 to its logical conclusion within six weeks from today. MHADA and/or its competent officials should hear the Petitioner and 7th Respondent and pass the speaking order, which should be communicated to the parties within six weeks from today.

7. If the speaking order directs demolitions or removals, then such an order must also be executed expeditiously unless there is any legal impediment to doing so. The Petitioner and/or 7th Respondent, if aggrieved by the MHADA's order, have the liberty to challenge the same following law.

8. We clarify that we have not examined the rival contentions. Therefore, all contentions of Petitioner and 7th Respondent are kept open to be decided by MHADA/its officials in the first instance.

9. This Petition is disposed of in the above terms without any costs order.

10. All concerned to act on an authenticated copy of this order."

4. In pursuance of the orders passed by this Court, the Competent Authority issued notices to all parties, and after hearing the parties, passed an order dated 6 June 2025 (Exhibit – C, page 45). The operative part of the order, reads thus:

(Translation of a photocopy of Order, typewritten in Marathi).

ORDER

After the plot of land is allotted to the Society viz. Tagore Nagar Shree Ganesh Krupa Co-operative Housing Society (Ltd.), Building No. 418, Tagore Nagar, Vikhroli (East), Mumbai – 400083, the concerned Co-operative Housing Society was primarily responsible to ensure that no encroachment is made on the said plot of land. However, prima facie, it is seen that, presently there is an encroachment made on the plot of land adjoining to the building. In the present matter, as per the report in respect of the on-site inspection, carried out earlier by the office of the Executive Engineer/Kurla Division, further steps as per the Order bearing No. E-3733743, dated 8.1.2025, passed by the Hon'ble Secretary/ Maharashtra Housing and Area Development Authority in pursuance of the said report, should be taken for removing the encroachment.

O/C
(Signature Illegible)
(R. C. Bhosle)
Estate Manager (Mulund)
Mumbai Board.

5. The grievance of the petitioner is that the said order has not been implemented. The petitioners case is thus that respondent No.8 continues to encroach on the petitioner's plot of land.

6. Mr. Patil, learned counsel for respondent No.8, would not have any objection for the said order being implemented by following due procedure in law.

7. If this be so, we direct the Competent Authority to implement the said order in accordance with law, as expeditiously as possible, and in any event within a period of one month from today. All contentions of the parties, in regard to the implementation of the said order, are expressly kept open.

8. The petition stands disposed of in the aforesaid terms. No costs.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)