
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 13073 OF 2024

Kushalraj Land Developers Pvt. Ltd. and Anr. ...Petitioners

Versus

Mumbai Building Repair and Reconstruction
Board and Ors. ...Respondents

Mr. Aadil Parasrampuria, *i/b A&P Partners, for the Petitioners.*

Ms. Sayli Apte, *i/b P. G. Lad, for Respondent Nos.1 and 2.*

Mr. Mutahhar Khan, *a/w Mr. Vishal Mehta, Mr. Ranjyot Panesar i/b M/s. MV Law partners, for Respondent No.3.*

Mr. Chandrajit Das, *i/b Parinam Law Associates, for the Respondent No.4.*

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : JANUARY 27, 2026

ORDER:

1. Rule. By consent of parties, made returnable forthwith and the Petition is taken up for final hearing.

2. This is a Petition impugning an order dated July 23, 2024, passed by the Mumbai Building Repairs and Reconstruction Board, pursuant to a direction contained in an order passed by the learned

Division Bench of this Court dated January 31, 2024, directing that MHADA may consider the issues involved within its statutory ambit, and decide whether or not there is a default in the payment of arrears of transit rent.

3. The learned Division Bench, among others, stated the following :-

“4. In regard to the claim for arrears of transit rent, it is for MHADA to decide whether there is or is not default. If there is a default, MHADA will undoubtedly be able to ascertain the amount of the default and will be able to impose the necessary conditions and issue the necessary directions to the developers. It is if the MHADA fails to do this within a reasonable time that we can possibly intercede. This issue does not arise because we direct MHADA to take up the matter within a period of six weeks from today and take steps in accordance with law.

9. We are making it clear that MHADA is not required to enter into any controversy that is beyond its statutory remit.”

4. The impugned order has been passed pursuant to such direction by that Learned Division Bench. It is common ground that another Writ Petition (L) No. 10162 of 2024 (“**WP 10162**”) has been filed by the same Association which had filed the earlier Writ Petition that had led to the order dated January 31, 2024, seeking a direction,

among others, that MHADA must enforce its order and ensure deposit of transit rent.

5. WP 10162 is being heard by a learned Division Bench. The non-grant of interim relief on the premise that it could be in the nature of final relief, is said to have been carried to the Supreme Court, and was not entertained. Be that as it may, WP 10162 seeking enforcement of the Impugned Order is already pending before the Learned Division Bench. In parallel, the Petitioner (the Developer) has filed this Petition impugning the same order, complaining that the tenants had already struck a bargain with the Petitioner-Developer to waive their transit rent, in consideration of shifting the development to the regulatory framework under DCPR 2034. It appears that there are in all 82 tenants, and some tenants may have also struck private bargains with the Developer.

6. Two letters are relied upon by the learned Advocate for the Petitioner to state that the bargain has changed – a letter dated November 16, 2021 issued by the Developer to the Secretary of the Vaidya Vadi Rahivasi Sahakari Society and a reply by the said Society by a letter dated November 29, 2021. His contention is that that Association on behalf of its members had agreed to forgo all arrears of transit rent and there is not a whisper of this factual position in the

Impugned Order, which necessitates quashing and setting aside the Impugned Order for non-application of mind.

7. On a review of the record, it is clear that the Learned Division Bench made it clear that MHADA would exercise its powers in reviewing the matter of transit rent, within the remit of its statutory mandate. In my opinion, it would not be within MHADA's limits to look at individual cases and look at whether rights to arrears of rent have been waived by any specific tenant or group of tenants, and whether as a collective body, an association is representative in its character with a right of a majority to bind the minority, and such issues.

8. The ambit of MHADA's review would be to examine whether the conditions imposed by MHADA in its approvals and No-Objection Certificate have been complied with. Payment of rent is a condition contained in the No-Objection Certificate. If such transit rent has not been paid, it would be well within the ambit of MHADA to note that the conditions imposed by it have not been fulfilled.

9. In these circumstances, in my opinion, no case has been made out for exercise of the discretion of the Writ Court to intervene with the Impugned Order. Needless to say, the Impugned Order already forms the subject matter of another Writ Petition i.e. WP 10162, which

is pending before the Learned Division Bench. The Petitioner may present its contentions in those proceedings, in any case. The captioned Writ Petition, as formulated, does not call for this Court issuing any directions interfering with the Impugned Order.

10. Learned Advocate for the Petitioner also points to an annexure to the Impugned Order, which he contends conflicts with paragraph 1 of the operative part of the Impugned Order, inasmuch as non-certified tenants' arrears have also been included in the total amount set out in the table of rent arrears. Paragraph 1 is clear that the order only deals with certified tenants and indeed grants liberty to others to seek certification by presenting facts, and that, if and when any tenant is certified as eligible for the rent arrears, he would be covered by the Impugned Order and not otherwise. Moreover, any factual errors, needless to say, may always be pointed out to MHADA.

11. No comment is made on merits of any individual case. The short point is that the relief of interference with the Impugned Order is not found appropriate since no fault can be found with the approach of MHADA. The Petitioner is at liberty to pursue such proceedings and remedies that he perceives to be available to him to enforce the purported waiver of rent arrears. This Court, in exercise of the writ jurisdiction, is not inclined to entertain the grievances raised in the

Petition since the points being made raise questions of fact, which is not meant for trial in proceedings in a Writ Petition.

12. With the aforesaid clarifications, the Petition is ***disposed of***. In view of disposal of the Petition, nothing survives in the Interim Application and the same is also ***finally disposed of***. Rule is accordingly discharged.

13. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]