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

WRIT PETITION NO. 4683 OF 2024

Ganga Appa Mhaskar
Through GPA Holder Santosh Appa Mhaskar & ors. … Petitioners
Versus
The State of Maharashtra and ors. …. Respondents

WITH
WRIT PETITION NO. 4678 OF 2024

Farukh Ahmed Mohammad Safi Shaikh … Petitioner
Versus
The State of Maharashtra and ors. …. Respondents

WITH
WRIT PETITION NO. 4669 OF 2024

Varun Dilip Halde … Petitioner
Versus
The State of Maharashtra and ors. …. Respondents

WITH
WRIT PETITION NO. 4671 OF 2024
WITH
INTERIM APPLICATION NO. 3091 OF 2024

Ramchandra Sadashiv Pilankar … Petitioner
Versus
The State of Maharashtra and ors. …. Respondents

WITH
WRIT PETITION NO. 4670 OF 2024

Anita Anand Ghume … Petitioner
Versus
The State of Maharashtra and ors. …. Respondents

WITH
WRIT PETITION NO. 4674 OF 2024

Anant Pandurang Teli … Petitioner
Versus
The State of Maharashtra and ors. …. Respondents

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Mr. Nitin Gaware Patil a/w Mr.Omkar Chavan, for the petitioners.
Mr. J.G. Aradwad (Reddy) a/w Mr. Abhijit Patil, for respondents no. 2, 3 & 4.
Smt. Geeta Shastri (through VC), for SRA.
Mr. Kevin Periera i/b Adv. Chinmaya Acharya, for the respondent no. 6.
Smt. Vrushali Kabre, AGP for respondent-State in WP/4683/24, WP//4669/24.
Mr. Suraj Gupte, AGP for respondent-State in WP/4678/24.
Mr. Prashant Kamble, AGP for respondent-State in WP/4671/24.
Mr. Manish Upadhye, AGP for respondent-State in WP/4670/24.
Smt. Anupamaa Pawar, AGP for respondent-State in WP/4674/24.

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CORAM : M. S. KARNIK &
S. M. MODAK, JJ.

DATE : 8th APRIL, 2026

ORAL ORDER (PER M. S. KARNIK, J.) :

1. The petitioners in these petitions have raised twofold grievances. The first grievance is that though the petitioners have been held to be eligible occupants, rent has been paid by the respondent no.6-developer from the date of the decision of the eligibility whereas the same should be from the date of demolition.

Learned counsel for respondent no.6-developer submitted that appropriate rent has been paid to the petitioners. However, the issue is no more res integra so far as the question from which date the payment of rent commences to the occupants of the structure in respect of which they are found to be eligible. Accordingly, the petitioners are entitled to rent from the date of demolition of the structure. If the developer has paid the rent from the date of demolition of the structure, nothing further remains to be done. However, if the rent has been paid from the date of eligibility, in that case, we direct the respondent no.6 – developer to pay the difference in rent from the date of demolition of the subject structure. The arrears be paid within a period of 4 months from today. After the arrears are paid, in case there is any dispute as to the amount, it is open for the petitioners to approach the Special Cell constituted pursuant to the decision of this Court dated 23/12/2025 in the case of **Om Shri Sai SRA Co-operative Housing Society Vs. State of Maharashtra**[1]**.**

2. Learned counsel for respondent no. 6-developer submitted that the Circular No. 153 by which the developer has

1 Decision of this Court dated 23/12/2025 in Writ Petition No.3140 of 2019 and other connected petitions

been made liable to pay rent from the date of demolition and not from the date of eligibility is already under challenge in a separate writ petition filed before this Court. Learned counsel for the developer fairly stated that there is no stay to the circular in operation. It is not possible for us to accede to the request of the developer that these petitions be kept pending till the decision on the aforesaid writ petition. In fact, this Court in Writ Petition (L) No. 3219 of 2019 in the case of **Smt. Kusum Subhash Baisane Vs. State of Maharashtra and ors.**[2] in paragraphs 17 & 18 has observed thus :

> "17. Though the initial cut off date to determine eligible slum dweller was 1st January, 1995, the same was extended to 1st January, 2000 vide Government Resolution dated 16th May, 2015. In the Annexure-II list which was certified on 14th June, 2010, petitioner was marked as not eligible. Petitioner's appeal against non-eligibility was allowed by SRA on 26th November, 2017. Competent authority recorded a clear finding of fact that petitioner was residing in the demolished structure prior to 1st January, 2000. If this be the position, then considering the fact that the competent authority had itself taken the view that petitioner was residing in the demolished structure prior to 1st January, 2000 eligibility of the petitioner would relate back to the certified Annexure-II list first published on 14th June, 2010. If that be so, then on the date of demolition i.e. 17th November, 2014 petitioner would have to be construed as an eligible slum dweller.
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> 18. In circular No.153 of SRA dated 6th June, 2015, the procedure to provide rent to the slum dweller by the developer is provided. It is stated that the said procedure has been laid down so that the eligible slum dweller can get the rent without any hurdle from the date of demolition of the structure till he gets possession of the rehabilitation tenement. What is of relevance is the date of demolition. If on the date of demolition the slum dweller is construed to be eligible, then he

2 Decision of this Court dated 13/01/2020 in Writ Petition (L) No. 3219 of 2019.

would be entitled to the transit rent from the date of demolition."

3. In such view of the matter, we are not inclined to accede to the request of the developer to await outcome of the decision in Writ Petition No. 4804 of 2025.

4. So far as the aspect regarding the deduction of 10% TDS on the transit rent by respondent no. 6-developer is concerned, learned counsel for the petitioners relied upon the decision of this Court in **Sarfaraz S. Furniturewalla Vs. Afshan Sharfali Ashok Kumar and ors[3].** In paragraph 10 of the said decision, it is observed thus :

> "10. The ordinary meaning of rent would be an amount which the tenant/licensee pays to the landlord/licensor. In the present proceedings the term used is "transit rent", which is commonly referred as hardship allowance/rehabilitation allowance/displacement allowance, which is paid by the developer/landlord to the tenant who suffers hardship due to dispossession. Hence, in my opinion "transit rent" is not to be considered as revenue receipt and is not liable to be taxed, as a result there will be no question of deduction of tax at source (TDS) from the amount payable by the developer to the tenant."

5. In such view of the matter, respondent no. 6- developer is not justified in deducting the TDS from the amount of rent payable to the petitioners-tenants. If it is the case of respondent no. 6 that amounts have already been deducted and deposited with the

3 2024 SCC OnLine Bom 1231

Income Tax Department, it is for the respondent no.6 to place the legal position before the Income Tax Department and seek appropriate reliefs. However, merely because the TDS is deducted pursuant to the directions of the Income Tax Department, is no ground to deprive the petitioners the relief claimed in view of law laid down by this Court in **Sarfaraz S. Furniturewalla** *(supra)* . We therefore direct that the amount which has been deducted towards TDS be paid over to the petitioners within a period of 4 months from today.

6. The writ petitions are accordingly disposed of in the aforesaid terms.

(S. M. MODAK, J.) **(M. S. KARNIK, J.)**