



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

WRIT PETITION NO. 3734 OF 2025

Balwant Singh & Ors.

...Petitioners

Versus

Municipal Corporation of Greater Mumbai,
through Municipal Commissioner & Ors.

...Respondents

Mr. Chirag Mody a/w. Mr. Pranav Khatkul, Janv V. Gulati for the petitioners.

Ms. Jaymala Ostwal, Addl. G.P. for the State.

Ms. Anjali Ghuge for respondent nos. 1 to 4/BMC.

Ms. Priyanka Bhadrashete for respondent no. 5.

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

DATE: 23 FEBRUARY 2026

P.C.

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

“a) That this Hon’ble Court be pleased to issue Writ of Mandamus or any other appropriate Writ, Order or Direction under Article 226 of the Constitution of India directing the respondents to allot and hand over possession of 3 number of residential PAP units to petitioners in the adjoining SRA Scheme developed on land bearing C.T.S. No. 255, 255/1 to 3 and 259 (pt.), 259/1 to 25 to K/East ward;

b) That this Hon’ble Court be pleased to issue Writ of Mandamus or any other appropriate Writ, Order or Direction under Article 226 of the Constitution of India directing the respondents to consider the representation of the petitioner, calling for hearing and taking appropriate decision on the representations of the petitioners in a time bound manner.”

2. At the outset, we may observe that this is a second petition which is filed by the petitioner on the same cause of action. The earlier Writ Petition, being Writ Petition No.1281 of 2022, was filed and the co-ordinate Bench of this Court, of which one of us (G.S. Kulkarni. J.) was a member, passed the following order

on 28 March, 2023:

“1. We have heard Mr. Kanade learned counsel for the petitioner, Ms. Mahadik learned counsel for the respondent No.1/Municipal Corporation, Mr. Patil learned counsel for the respondent No.2/Slum Rehabilitation Authority (SRA) & Mr. Upadhye learned AGP for respondent No.3.

2. The petitioners are affected by the road widening, which was undertaken by respondent No.1. They have been held to be eligible in the final annexure issued by the Municipal Corporation for a permanent alternate commercial tenement (for short “PAP”). The petitioners were offered a PAP by the Municipal Corporation, which is a commercial tenement.

3. The petitioners although are eligible for allotment of commercial tenements, they are claiming allotment of residential tenements referring to the communication of the MCGM dated 6 October, 2020 addressed to the Chief Executive Officer of the SRA recording that three tenements are yet to be handed over by the developers M/s So-Lucky Builders, who had undertaken the road widening at their costs.

4. It is also informed by Mr. Patil, learned counsel for the SRA that these three residential PAP's are not so far allotted and the construction in which these three tenements are situated is yet to receive an occupation certificate.

5. On behalf of the Municipal Corporation such contention as urged on behalf of the petitioners is opposed stating that there cannot be any entitlement of the petitioners for a tenement who were not held eligible for residential tenements.

6. We note that the only prayer made in this petition is prayer clause (a), which reads thus:-

“(a) That this Hon'ble Court be pleased to issue Writ of Mandamus or any other appropriate Writ, Order or Direction under Article 226 of the constitution of India directing the Respondents to allot and hand over possession of 3 number of residential PAP units to Petitioners in the adjoining SRA Scheme developed on land bearing C.T.S. No. 255, 255/1 to 3 and 259 (pt.), 259/1 to 25 to K/East Ward;”

7. We may observe that on 20 March, 2023, the Court considering such contention of the petitioners had passed an order directing the Municipal Corporation to provide the details of alternate accommodation available to the petitioner. The said order reads thus:-

“Learned Advocate for the respondent-Municipal Corporation shall take instructions and inform the learned Advocate for the petitioners as to at which place the alternate commercial premises would be allotted to the petitioners.

2. The petitioners would accordingly take an appropriate position. To enable the parties to complete such exercise, stand over to 27 March 2023 (High on Board).”

8. Having heard the learned counsel for the parties and having perused the record, it may not be possible for us to grant relief to the petitioners as

prayed for. This more particularly that the Municipal Corporation is willing to offer to the petitioners alternate commercial tenements. As per the discussion on the earlier occasion, the Municipal Corporation also has indicated to the petitioner the commercial tenements which could be available to the petitioners. It is thus open to the petitioners to accept such commercial tenements. However, we cannot pass any order that the petitioners be held liable for any alternate residential tenements. Mr. Kanade at this stage submits that in that event the petitioners be permitted to make representation to the Municipal Corporation. If the petitioners so desire, they need to be permitted to make a representation which can be decided by the Municipal Corporation in accordance with law. In the aforesaid peculiar facts and circumstances of the case, we dispose of the petition by the following order:-

(i) Without prejudice to the rights and contentions of the parties, the petitioners are permitted to make a representation on the basis of the communication dated 6 October 2020, addressed by the Municipal Corporation to the CEO (SRA). The representation be made within one week from today.

(ii) If the representation is made, the Assistant Commissioner 'K', East Ward of the Municipal Corporation shall take an appropriate decision in accordance with law within a period of two weeks thereafter.

(iii) In the event, the representation of the petitioner is not favourably considered, needless to observe that the petitioner would become entitled to what has been offered by the Municipal Corporation as per the petitioners entitlement.

(iv) Insofar as three SRA units are concerned, as referred to in the communication dated 6 October 2020 of the MCGM (supra), till the decision is taken by MCGM and for a period of seven days in the event the decision is adverse to the petitioners, the CEO (SRA) shall not make a third party allotment of the said tenements.

9. Ordered accordingly.

10. The petition accordingly stands disposed of. No costs."

3. The grievance of the petitioners is that the representation as made by the petitioners pursuant to the liberty granted by this Court, has not been considered. Today, Mr. Mody, learned counsel for the petitioners contends that recently Mumbai Municipal Corporation has issued a policy Circular No. 45/2025-26 dated 17 September, 2025, which entitles the petitioners to the grant of permanent residential accommodation, as they have been held to be eligible in respect of a commercial structure.

4. Considering the nature of the grievance and the earlier orders passed by this Court, we are of the opinion that it would be in the interest of justice that the representations as made by the petitioners be decided by the Competent officer of the SRA, after granting an opportunity of a hearing to the petitioner. A reasoned order shall be passed, preferably within a period of three weeks from today, after appropriate consultation with the Municipal Corporation for Greater Mumbai and considering the Policy dated 17 September, 2025, a copy of which is taken on record. All contentions in that regard are expressly kept open.

5. Disposed of in the aforesaid terms. No costs.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)