

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

WRIT PETITION NO.3447 OF 2025

Iftekhar Hussaini Sayed

Petitioner

versus

1. Maharashtra Housing & Area Development Authority,
2. Mumbai Building Repairs & Reconstruction Board,
3. M/s.Sai Palace Hotels Private Limited

Respondents

Mr.Rajesh Singh with Mr.Saurav Singh, Kamal Mishra i/by Rajesh Singh & Associates for Petitioner.

Mr.Jenish Dinesh Jain h/for Mr.Uday Warunjikar for MHADA.

Mr.Manish Gala with Mr.Milind Nar, Mr.Samyak Dedhia for Respondent no.3.

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

DATE: 10th February 2026

P.C.

1. This 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 Writ of Mandamus or a writ in the nature of Mandamus or any other appropriate Writ, order or direction thereby directing Respondent no.2 i.e. Mumbai Building Repairs & Reconstruction Board, through its Executive Engineer, D-3 Division, 89-95, Rajani Mahal, Tardeo Road, Mumbai-400034 to issue notice under Section 79(A) of the MHADA Act to Respondent No.3 i.e. M/s.Sai Palace Hotels Private Ltd; having its registered address 7th floor, Office No.7N, The Ruby, 29, Senapati Bapat Marg, Ranade Road, Dadar (W), Mumbai-400028, in respect of the said buildings i.e. Building Nos.31/C-33, known as Desai Mahal and Lily College situated at French Road, Girgaum Chowpatty, A.R.Rangnekar Marg, Mumbai-400007, on such terms and conditions as this Hon’ble Court may deem fit and proper;

b) This Hon’ble Court be pleased to issue Writ of Mandamus or a Writ in the nature of Mandamus or any other appropriate Writ, order or direction to Respondent nos.1 and 2, that if the landlord fails to comply with the said notice issued u/s.79A of MHADA Act, the Respondent no.2 be directed to issue the

statutory notice u/s.79(A)(1)(b) of MHADA Act to the Petitioner and other tenants/occupants of Building Nos.31/C-33, immediately on expiry of statutory period provided therein.”

2. The Petitioner has filed the present petition being aggrieved by the inaction on the part of Respondent nos.1 and 2, in not issuing final notice under Section 79(A) of Maharashtra Housing Area and Development Act, 1976 (MHAD Act) to Respondent no.3 in spite of issuance of earlier notices dated 12th May 2021 and 1st July 2021 declaring the structure/buildings Nos.31/C and 33 known as Desai Mahel and Lili College situated at French Road, Girgaon Chowpatty, Mumbai-400 007 more particularly situated at C.S.No.1523, Girgaon Division, Mumbai City, as dangerous and considering that the same has been vacated and demolished in the year 2024 by the Respondents.

3. It is the Petitioner’s contention that post issuance of notices dated 12th May 2021 and 1st July 2021, the tenants of building number 33 filed L.C Suit No.1214 of 2021 before the City Civil Court, Mumbai challenging the aforesaid notices. A Notice of Motion No.1486 of 2021 was filed in the aforesaid suit seeking urgent ad-interim and interim reliefs. By an order dated 18th August 2021, the City Civil Court allowed the said Notice of Motion, restraining the Respondent nos.1 and 2 from taking any coercive action in pursuance of the notices dated 12th May 2021 and 1st July 2021.

4. Being aggrieved by the order dated 18th August 2021 passed by the City Civil Court, Mumbai, the Respondent nos.1 and 2 preferred an appeal before this Court bearing Appeal No.1041 of 2022. This Court on 26th July 2023 passed an order on the said appeal thereby directing that Respondents therein and other

occupants vacate the respective portions of the building within a period of one week, failing which the authorities were free to take appropriate action in terms of the aforesaid notice. It was further directed that if any of the occupants still chose to reside in the building, they shall continue to occupy the same at their own risk, costs and consequences as to the damages which may be caused to third parties as well and they shall not hold the MHADA responsible in the event of any untoward incident of collapse.

5. The Petitioner had addressed a detailed letter dated 17th July 2023 to Respondent no.2 to issue notice under Section 79(A) of the MHAD Act to Respondent no.3 for repairing/redevelopment of the aforesaid building as the said building was a cessed building, which the Petitioner submits was not acted upon by Respondent nos.1 and 2 MHADA.

6. Pursuant to the aforesaid order dated 18th August 2021 passed by the City Civil Court, the Respondent no.2 issued notice under section 77(b) of MHAD Act to the Petitioner dated 8th August 2023 and 28th May 2024 seeking vacating room nos.13 and 16 in one of the buildings i.e. building no.31/C.

7. It is on the backdrop of the aforesaid facts that the Petitioner has filed the present petition seeking relief that the Respondent no.2 may be directed to issue a notice under Section 79(A) of MHADA Act to Respondent no.3.

8. We have heard learned counsel for the Petitioner and Respondents. We have also perused the record. We are of the view that since the Petitioner has already made a detailed representation dated 17th July 2023 before Respondent no.2, and the same has not been decided, it would be appropriate that the same

may be decided expeditiously and all the contentions as raised by the Petitioner therein be considered.

9. In view thereof, we deem it appropriate to pass following order, which will meet the ends of justice :

ORDER

- (i) Respondent no.2-Mumbai Building Repairs & Reconstruction Board is directed to consider and decide pending representation dated 17th July 2023 filed by the Petitioner in accordance with law, as expeditiously as possible, preferably within a period of four weeks from the date this order is made available to the said Respondent by the Petitioner;
- (ii) All contentions regarding issuance of notice under Section 79(A) of MHAD Act be decided while deciding the representation dated 17th July 2023 by Respondent no.2;
- (iii) Let all parties be heard;
- (iv) All rights and contentions of the parties are expressly kept open;
- (v) Writ Petition is disposed of in above terms. No costs.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)