

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

WRIT PETITION NO. 1550 OF 2026

1. Kishor Amichand Kharva
2. Lila Dhanji Kharva
3. Shrikant Shivram Pawar
4. Jaya Shantilal Makwana

...Petitioners

Vs.

1. The State of Maharashtra
Through Its Secretary,
Housing Department
2. Slum Rehabilitation Authority
3. Mumbai Municipal Corporation
4. Dy. Chief Engineer (Building Proposal)
City, MCGM
5. Assistant Engineer, (B.P.)
City – IV
Wadala
6. The Assistant Commissioner of E-Ward
7. Colony Officer, E Ward, Byculla
8. M/s. J. Gala Enterprises

...Respondents

Mr. Ajaykumar R. Kori - Advocate for the Petitioners
Adv. Anjali Ghuge - for the Respondent Nos. 3 to 7 (BMC)
Adv. Aatish Tayade i/by Adv. Ravleen Sabharwat – for Respondent No.
2-SRA.
Shri Prashant Kamble – AGP for Respondent-State

Mr. Aditya Miskita a/w Mr. Sanjeel Kadam, Ms. Netra Jagtap i/by Kadam and Company for Respondent No. 8.

CORAM : **M. S. KARNIK AND
S. M. MODAK, JJ.**

DATE : **02nd APRIL 2026**

P. C. :-

1. Heard Mr. Kori, the learned counsel for the Petitioners, Ms. Ghuge, the learned counsel for Respondent Nos. 3 to 7-BMC, Mr. Tayade, the learned counsel for Respondent No. 2-SRA, Mr. Kamble, the learned AGP for Respondent-State and Mr. Miskita, the learned counsel for Respondent No. 8.

2. It is grievance of the Petitioners that Petitioners are eligible slum dwellers. They are entitled for in situ accommodation, which the Respondent No. 8-Developer is refusing to grant.

3. So far as Petitioners are concerned, part of their structures were on the BMC owned land and part of structure was on the land owned by the Respondent No. 8. In such view of the matter, it is contention of the Respondent No. 8 that it would be responsibility of the Corporation to pass necessary orders for allotment of the alternate accommodation.

4. The learned counsel for the Petitioners submitted that they are entitled for in situ alternate accommodation.
5. The learned counsel for the Corporation, on the other hand, submitted that if the Petitioners are aggrieved by the decision regarding allotment of the alternate accommodation, then they have a remedy of preferring an appeal before the Assistant Commissioner of the concerned Ward under the Bottle Neck Policy, 2017. If that is so, it would be appropriate in the facts of the present case, if the Petitioners prefer an appeal before the Assistant Commissioner of the concerned Ward. If such an appeal is preferred within a period of 15 days from today, the Assistant Commissioner of the concerned Ward shall hear the appeal expeditiously and decision be informed to the Petitioners.
6. It is made clear that we have not made any observations on the merits of the contentions. All contentions are kept open.
7. The Petitioners as well as Respondent No. 8 may appear before the Assistant Commissioner of the concerned Ward on 16.04.2026.
8. The Appeal shall be decided within a period of four weeks from 16.04.2026. The Petitioners are held to be eligible for alternate accommodation. No coercive steps be taken against the Petitioners for

a period of two weeks from today and further interim relief may be in terms of the bottleneck policy during the pendency of the appeal.

9. The learned counsel for the Respondent No. 8 submitted that so far as Petitioner Nos. 1 and 4 are concerned, they are entirely on the BMC portion, whereas other Petitioners are partly on BMC portion and partly on portion of Respondent No. 8. We are not making observations so far as this contention of Respondent No. 8 is concerned which may be looked into by the Assistant Commissioner.

10. The petition is disposed of.

(S. M. MODAK, J.)

(M. S. KARNIK, J.)