

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

WRIT PETITION (L) NO. 4649 OF 2026

1. Geetanjali Co-operative
Housing Society Limited

2. Rajendra Honkar Kamble

3. ISCO Builders LLP

4. Ishwarlal Mohabatram Lakhara

...Petitioners

Vs.

1. The State of Maharashtra
Through the Ministry of Urban
Development

2. Mumbai Building Repairs
and Reconstruction Board
(MHADA Unit)

3. Municipal Corporation of
Greater Mumbai.

4. Residential Executive Engineer

5. The Assistant Commissioner

6. The Deputy Chief Engineer
(Zone-II)

7. The Executive Engineer
(D-2) Division

8. Darshan Jayant Builders

...Respondents

**ALONGWITH
INTERIM APPLICATION NO. 2189 OF 2026
IN
WRIT PETITION (L) NO. 4649 OF 2026**

Darshan Jayant Builders

...Applicant

Vs.

The State of Maharashtra
Through the Ministry of Urban
Development

...Respondent

Mr. Rohan Savant a/w Rajesh Shah , Sneha Mahawar, Sanjay Mali i/by
Tushar Goradia - Advocate for the Petitioners

Adv. Anjali Ghuge - for the Respondent Nos. 3 and 5(BMC-MCGM)

Ms. Sneha Prabhu – Advocate for Respondent Nos. 2, 4, 6 and 7

Mr. Rakesh Pathak – AGP for respondent-State

Adv. Rajesh Kachare i/by Adv. Viraj Jadahv – For Respondent No. 8.

Chief Officer MBR and R Board – Respondent No. 2

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

DATE : 05th MAY 2026

P. C. :-

1. The present petition prays for following substantive reliefs:-
 - a) that this Hon'ble Court be pleased to issue writ of mandamus or writ in the nature of mandamus or any other appropriate writ, order and direction, calling for the record and proceedings in respect of the proposal submitted by the Petitioners (Exhibit "F" hereto) and after examining the legality and validity thereof, this

- Hon'ble Court further be pleased to direct the Respondents to consider the same within a time frame period and process the same in accordance with law;
- b) that this Hon'ble Court be pleased to issue a writ of mandamus or writ in the nature of mandamus or any other appropriate writ, order and direction calling for the record and proceedings in connection with the communication dated 7th November 2025 (Exhibit "QQ" hereto) and after examining the legality and validity thereof, this Hon'ble Court further be pleased to quash and/or set aside the same;
 - c) that pending the hearing and final disposal of the present Petition, this Hon'ble Court be pleased to direct the Respondents to consider the proposal submitted by the Petitioners (Exhibit "F" hereto) within a time frame period and process the same in accordance with law.
 - d) That pending the hearing and final disposal of the present Petition, this Hon'ble Court be pleased to direct the Respondents to not include the property of the Petitioner No.1 in the proposed cluster redevelopment and/or proceed further with the cluster redevelopment in so far as the property of the Petitioner No.1 is concerned;

2. The facts of the present case are that the Architect of the Petitioner No. 3-Society forwarded a proposal to Chief Officer, MBRRB for redevelopment of the said property. The Architect forwarded 51% consents as per DCPR 33/24 and documents of tenants of the said property to Respondent No. 6, with a request to MHADA to expedite the procedure of redevelopment. The said

proposal is dated 17.04.2025. The Petitioner No. 3 forwarded some more additional consent of tenants of Petitioner No. 1-Society (proposed) on 30.04.2025 to Respondent No. 7, thereby aggregating total number of consents to 147. On 19.05.2025, Petitioner No. 3 forwarded 5 (five) additional consents of tenants of Petitioner No. 1-Society (proposed) to Respondent No. 7 aggregating total number of consents to 152, Petitioner No. 3 forwarded three additional consents on 19.06.2025 and 30.06.2025 of tenants of Petitioner No. 1 -Society (proposed) to Respondent No. 7 aggregating to 155 consents. The Petitioner No. 3 forwarded one additional consent of tenants of Petitioner No. 1- Society (proposed) on 20.08.2025 with Respondent No. 7 totaling consent of 156 occupants/tenants.

3. We have heard learned counsel for the Petitioners, learned counsel for MHADA and learned counsel Mr. Kachare for Respondent No. 8-Developer, who has filed fresh proposal pursuant to the rejection of the Petitioner No. 3's proposal.

4. It is case of the Petitioners that the proposal came to be submitted by the Petitioners for redevelopment on the footing that there are more than 51 % valid consents in their favour and the same

are submitted within the prescribed time period. This proposal was scrutinized by Respondent No. 7-Executive Engineer. By the impugned order, the Respondent No. 7 has refused to process the proposal on the ground that there are several deficiencies. One of the factors recorded by the Executive Engineer is that the consents are not more than 51% as required. Further on verification, it could not be found that there are more than 51% of the valid consents. The other ground on which the proposal is not processed is that there is also private plot which is subject matter of the proposal and as this is not permissible in terms of Regulation No. 33 (24) of the DCPR.

5. We have perused the impugned order passed by the Executive Engineer. The Executive Engineer has given elaborate finding as to why the proposal cannot be processed for want of defects mentioned therein. It is the submission of learned counsel for the Petitioners that the Respondent No. 7 ought to have heard the Petitioners before refusing to process the proposal or given adequate opportunities to rectify the deficiencies. It is the submission that the Petitioner should have been heard.

6. On the other hand, it is submission of the learned counsel for

MHADA as well as learned counsel for the Respondent No. 8-Developer that there is no requirement under the provisions of the Maharashtra Regional Town Planning Act, 1966 for a hearing at the stage of scrutiny of the proposal. It is further submitted that the Petitioners being developers/Society can always make a representation to the Chief Officer of MBRRB to place on record their grievance as to alleged failure on the part of the Executive Officer in properly scrutinizing the proposal.

7. We find from the impugned order that on a due consideration of the proposal, detailed finding is recorded by Respondent No. 7 while holding that the proposal cannot be processed. The reasons have been stated in the impugned order. No doubt this is at the stage of scrutiny. However, *prima-facie*, materials do indicate that the Petitioner has 51 % consents. These consents need to be verified in accordance with the Circular dated 16.08.2010.

8. We are not expressing any opinion on any issue raised in this petition or those which are subject matter of the impugned order. Suffice it to observe that in the facts and circumstances of the present case, the Petitioners ought to be given an opportunity of explaining the

deficiencies and to rectify them, as the findings recorded after the scrutiny of the proposal indicate that Respondent No. 7-Executive Engineer has considered the proposal rendering detailed findings before concluding the same cannot be processed on account of deficiencies and for the reasons stated therein.

9. In such view of the matter, it would be appropriate, if the Petitioners are given an opportunity of hearing. The circular dated 16.08.2010 provides for remedy to the aggrieved person for making representation to the Chief Officer of the Respondent No. 2. The learned counsel for the Petitioners submits that he would prefer a detailed representation to the Chief Officer of the Respondent No. 2 against the rejection to the proposal. Such representation be preferred within a period of two weeks from today. Upon such representation being filed, the Chief Officer after hearing the Petitioners as well as Respondent No. 8-Developer shall take a decision on the representation within a period of eight weeks from the date of filing of the representation. The parties to co-operate. The Chief Executive Officer to examine the representation without being influenced by the findings of the Executive Engineer and decide it on its own merits and

in accordance with law. Parties to appear before the Chief Officer on 19th May 2026 at 12.30 p.m..

10. Keeping all contentions open, the present Writ Petition is disposed of.

11. Pending Interim Application, if any, also stands disposed of.

(S. M. MODAK, J.)

(M. S. KARNIK, J.)