



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

WRIT PETITION (L) NO.7193 OF 2024

- | | | |
|-----|-------------------------------------|---|
| 1. | Dilip Gopal Pewekar |] |
| | Age : Adult, Occupation : Retired |] |
| | Room No.4. |] |
| 2. | Mangala Satyvan Vinarkar |] |
| | w/o Late Satyvan Ganpat Vinarkar |] |
| | Age : Adult, Occupation : Retired |] |
| | Room No.6. |] |
| 3. | Ganesh Bhiku Devlekar |] |
| | Age : Adult, Occupation : Service |] |
| | Room No.8. |] |
| 4. | Vaishali Vinayak Kadwadkar w/o |] |
| | Late Vinayak Govind Kadwadkar |] |
| 5. | Vinaya Waman Jalgaonkar |] |
| | Age : Adult, Occupation : Retired |] |
| | Room No.11. |] |
| 6. | Makarand Mohan Padhe |] |
| | Age : Adult, Occupation : Self |] |
| | Employed |] |
| | Room No.17. |] |
| 7. | Nanuben Shantilal Boricha |] |
| | Age : Adult, Occupation : Housewife |] |
| | Room No.18. |] |
| 8. | Sudhir Bhikaji Deolekar |] |
| | Age : Adult, Occupation : Service |] |
| | Room No.19. |] |
| 9. | Vaishali Manoj Nagaonkar |] |
| | w/o Late Manoj Ganpat Nagaonkar |] |
| | Age : Adult, Occupation : Service |] |
| | Room No.20. |] |
| 10. | Arvind B. Panchal |] |

- Age : Adult, Occupation : Retired]
Room No.21.]
11. Mardav Makarand Padhye,]
Grand Son of Late Mohan Hari Padhye]
Age : Adult, Occupation :-Self Employed,]
Room No.22.]
12. Prashant H. Mehta,]
Grand Son of Ramaben Bhogilal Mehta,]
Age: Adult, Occupation :- Service,]
Room No.24.]
13. Snehal Santosh Humbre,]
Age: Adult, Occupation :- Service,]
Room No.34.]
13. Snehal Santosh Humbre,]
Age: Adult, Occupation :- Service,]
Room No.34.]
14. Prashant Rajaram Chiplunkar,]
Age: Adult, Occupation :- Retired,]
Room No.34.]
15. Sandeep Nathuram Nagaonkar,]
Age: Adult, Occupation :- Service,]
Room No.37/38.]
16. Ramdas Ganpat Kadam,]
Age: Adult, Occupation :- Retired,]
Room No.39.]
17. Vinodkumar M. Pandye,]
Age: Adult, Occupation :- Self Employed,]
Room No.40.]
18. Megha Manohar Dasgaonkar,]
Age: Adult, Occupation :- Housewife,]
Room No.41.]
19. Reshma Ramesh Dvrukhkar,]
W/o Late Ramesh M. Devrukhkar]
Age: Adult, Occupation :- Housewife,]
Room No.42.]

- | | | |
|-----|--|---|
| 20. | Balmukund H. Sonar, |] |
| | Age: Adult, Occupation :- Business, |] |
| | Room No.43. |] |
| 21. | Pradeep Pawar |] |
| | Grand Son of Late Anandi Sonu Inarkar |] |
| | Age: Adult, Occupation :- Service, |] |
| | Room No.44. |] |
| 22. | Sumati G. Chavan, |] |
| | W/o Late Gangaram Sonu Chavan, |] |
| | Age: Adult, Occupation :- Housewife, |] |
| | Room No.45. |] |
| 23. | Nagesh Babaji Jadhav, |] |
| | Age: Adult, Occupation :- Retired, |] |
| | Room No.46. |] |
| 24. | Kamal Dilip Badade, |] |
| | Age: Adult, Occupation :- Service, |] |
| | Room No.47. |] |
| 25. | Chandrakant R. Inarkar, |] |
| | Age: Adult, Occupation :- Retired, |] |
| | Room No.49. |] |
| 26. | a. Sushma K. Singh |] |
| | W/o Late Kunvar Singh |] |
| | Age: Adult, Occupation :- Housewife, |] |
| | b. Sarita R. Singh |] |
| | Age: Adult, Occupation :- Housewife, |] |
| | Room No.51- 52. |] |
| 27. | Surendraprasad D. Patel, |] |
| | Age: Adult, Occupation :-Retired, |] |
| | Room No.54. |] |
| 28. | Suresh Kisan Wagaskar, |] |
| | Age: Adult, Occupation :- Self Employed, |] |
| | Room No.56. |] |
| 29. | Shyambihari Mishra, |] |
| | Age: Adult, Occupation :- Self Employed, |] |
| | Room No.57. |] |
| 30. | Sunil S. Dhuri |] |

- | | | |
|-----|--|---|
| | Son of Late Shridhar Sambhaji Dhuri |] |
| | Age: Adult, Occupation :- Retired, |] |
| | Room No.58. |] |
| 31. | Bal Krishna Vasudev Shukla, |] |
| | Age: Adult, Occupation :- Service, |] |
| 32. | Gaurishankar R. Singh, |] |
| | Son of late Ramsunder V. Singh |] |
| | Age: Adult, Occupation :- Service, |] |
| | Room No.60. |] |
| 33. | Savitridevi Malikram Yadav, |] |
| | Age: Adult, Occupation :- Housewife, |] |
| | Room No.61. |] |
| 34. | Ramkuber Singh, |] |
| | Age: Adult, Occupation :- Self Employed, |] |
| | Room No.62. |] |
| 35. | Mahendrapratap R. Pal, |] |
| | Age: Adult, Occupation :- Self Employed, |] |
| | Room No.65. |] |
| 36. | Shraddha S. Shetye, |] |
| | Age: Adult, Occupation :- Retired, |] |
| | Room No.66. |] |
| 37. | Sudam Gangaram Wagaskar, |] |
| | Age: Adult, Occupation :- Retired, |] |
| | Room No.68. |] |
| 38. | Shailesh Jamnadas Prajapati, |] |
| | Age: Adult, Occupation :- Self Employed, |] |
| | Room No.69. |] |
| 39. | Kavita Panchal, |] |
| | Daughter-in-law of Arvind Panchal, |] |
| | Age: Adult, Occupation :- Housewife, |] |
| | Room No.71. |] |
| 40. | Ashok Sateri Hundre, |] |
| | Age: Adult, Occupation :- Service, |] |
| | Room No.72. |] |
| 41. | Sateri N. Hundre, |] |

- Age: Adult, Occupation :- Retired,]
Room No.73.]
42. Jayshree Dashrath Sawardekar,]
Age: Adult, Occupation :- Housewife,]
Room No.02.]
43. Kashinath Gopal Kelkar,]
Age: Adult, Occupation :- Self Employed,]
Room No.27.]
44. Dataram Babu More,]
Age: Adult, Occupation :- Retired,]
Room No.55.]
45. Rajan G. Madlani,]
Age: Adult, Occupation :- Housewife,]
Room No.16.]
- ...Petitioners

V/s.

1. Maharashtra Housing Area and]
Development Authority,]
Grihanirman Bhavan, Kalanagar,]
Bandra [East], Mumbai – 400 051.]
2. Mumbai Building Repairs and]
Reconstruction Board,]
Through its Chief Officer,]
Grihanirman Bhavan, Kalanagar,]
Bandra [East], Mumbai – 400 051.]
3. Executive Engineer – Building Proposal]
[City] – 1, Municipal Office Building,]
Rafi Kidwai Marg, Wadala [West],]
Mumbai – 400 031.]
4. Alliance Infracorp Developer,]
Partnership firm having address as 315,]
3rd Floor, Commerce House, Fort,]
Mumbai – 400 023.]
5. Municipal Corporation of]
Greater Mumbai, Through its Building]
Proposal Department, Mumbai Island City,]
Municipal Officers Building,]

- | | | | |
|----|----------------------------------|---|----------------|
| | Rafi Kidwai Marg, Wadala [West], |] | |
| | Mumbai – 400 031. |] | |
| 6. | High Power Committee |] | |
| | Through its Secretary, |] | |
| | MHADA, Grihanirman Bhavan, |] | |
| | Kala Nagar, Bandra [East], |] | |
| | Mumbai – 400 051. |] | |
| 7. | State of Maharashtra |] | |
| | Through its Principal Secretary, |] | |
| | Housing Department, |] | |
| | Government of Maharashtra, |] | |
| | Mantralaya, Mumbai – 400 032. |] | ...Respondents |

Mr. Rajesh Kanojia for the Petitioners.

Mr. P.G. Lad, a/w Ms. Sayli Apte and Mr. Paras Pawar for Respondent Nos.1, 2 and 3-MHADA.

Mr. Pradip Thorat, a/w Mr. Pratik Shah for Respondent No.4.

Ms. Meena Dhuri, i/by Ms. Komal Punjabi for Respondent No.5.

Mr. Jagdish G. Aradwad (Reddy) for Respondent No.6 – HPC/SRA.

Mr. Milind More, Addl. G.P for Respondent No.7.

**CORAM : A. S. GADKARI AND
KAMAL KHATA, JJ.**

RESERVED ON : 9th April, 2025.

PRONOUNCED ON : 9th May, 2025.

JUDGMENT (Per Kamal Khata, J) :

1) This Writ Petition, filed under Article 226 of the Constitution of India, seeks a writ of mandamus directing the developer to execute Individual Supplementary Agreements for Alternate Permanent Accommodation in favour of the Petitioners in compliance with the Intimation of Disapproval ('IoD') dated 1st December, 2012 within a time frame. The Petitioners further seek a

direction for the developer to pay compensation at the rate of Rs.10,000/- per month per Petitioner, as stipulated in clause No.15 of the Agreement dated 17th June, 2014. Additionally, the Petition prays for an Order directing the registration of a Society comprising of tenants of the suit building to facilitate the continuation of the redevelopment Scheme.

1.1) Furthermore, the Petitioners request this Court to take appropriate action against the members of High Power Committee (HPC) for their willful disobedience of this Court's Order dated 16th July, 2019 passed in Writ Petition (L) No.3194 of 2018.

2) Mr. Lad, learned Advocate representing Maharashtra Housing and Area Development Authority ('MHADA') raises a preliminary objection to the maintainability of this Petition asserting that the reliefs sought do not fall within the scope of writ jurisdiction under Article 226 of the Constitution of India.

3) Mr. Pradip Thorat, learned Advocate appearing for the Respondent No.4-developer supports the contention of Mr. Lad for MHADA.

4) Mr. Kanojia, learned Advocate for the Petitioners submit that, this Petition would be maintainable. In support of his contentions, he relies on the following judgments:

(i) *Andi Mukta Sadguru Shree Muktajee Vandas Swami Suvarna Jayanti Mahotsav Smarak Trust & Ors. vs. V. R. Rudani & Ors.* reported in (1989) 2 SCC 691;

(ii) *Board of Control for Cricket in India vs. Cricke Association of Bihar & Ors.* reported in (2015) 3 SCC 251;

(iii) *Sushila Gordhandas Parikh vs. State of Maharashtra* reported in 2023 SCC OnLine Bom 1781 and

(iv) *Praga Tools Corporation vs. C.A. Imanual & Ors.* reported in (1969) 1 SCC page 585.

5) We have heard Mr. Rajesh Kanojia, Mr. Lad and Mr. Thorat and have perused the record of this Petition.

6) Having considered the preliminary objections and carefully examined the judgments relied upon by Mr. Kanojia, we are afraid that, the Writ Petition against a private entity will not be maintainable. In our view the judgments in the case of *Andi Mukta (supra)* and *Board of Control for Cricket in India (supra)* do not assist the Petitioners' case, as those judgements pertained to entities discharging public functions. In this case, the Respondent No.4, the developer, does not perform any public function, nor does it receive any financial aid from the Government that would bring it within the definition of "State" under Article 12 of the Constitution of India.

6.1) Similarly, the decision in the case of *Sushila Gordhandas Parikh (supra)* is of no assistance to the Petitioners. That case

involved the plight of senior citizens who were deprived of their rightful rents for an extended period, leading the Court to exercise its discretionary powers in their favour.

Present case is materially different, lacking such compelling circumstances warranting the Court's intervention.

6.2) Furthermore, the reference to the case of *Praga Tools Corporation (supra)* is also misplaced. The principle laid down in that case applies to entities performing statutory functions or those governed by a statutory framework. In the present matter, the developer is neither an Authority created under the statute nor a body governed by any statutory obligations. There is no statutory duty cast upon the developer, nor is it subject to the control or supervision of any statutory authority that would bring it within the ambit of "State" under Article 12 of the Constitution of India.

7) The Hon'ble Supreme Court in the case of *Shalini Shyam Shetty & Anr. v/s. Rajendra Shankar Patil* reported in (2010) 8 SCC 239 has categorically held that, the High Courts should refrain from entertaining disputes between private parties through Writ Petitions under Article 226 of the Constitution. We are bound by the authoritative pronouncement of the Hon'ble Supreme Court and the principles laid down in the said Judgment, in this regard.

8) In our considered view, the reliefs sought in this Writ Petition are directed against a developer who does not fall within the

ambit of “State” under Article 12 of the Constitution of India. The disputes raised in the Petition are essentially private in nature, involving contractual obligations and rights between the parties. Such Disputes do not warrant the exercise of this Court’s writ jurisdiction under Article 226.

9) Accordingly, this Petition is dismissed with no order as to costs.

(KAMAL KHATA, J)

(A. S. GADKARI, J.)