

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

AD-HOC NO. WP-LD-VC-4 OF 2020

ALONG WITH

WRIT PETITION NO. 40 OF 2020

Sahyog Homes Ltd.

...Petitioner

vs.

State of Maharashtra

...Respondent

ALONG WITH

INTERIM APPLICATION NO. 1 OF 2020

IN

AD-HOC NO. CP-LD-VC-33 OF 2020

IN

WRIT PETITION NO. 1531 OF 2017

WITH

INTERIM APPLICATION NO. 1 OF 2020

IN

WRIT PETITION NO. 1529 OF 2017

WITH

INTERIM APPLICATION NO. 1 OF 2020

IN

AD-HOC NO. WP-LD-VC-37 OF 2020

WRIT PETITION (L) NO. OF 2020

WITH

AD-HOC NO. WP-LD-VC-44 OF 2020

WRIT PETITION (L) NO. OF 2020

WITH
AD-HOC NO. WP-LD-VC-46 OF 2020
WRIT PETITION (L) NO. OF 2020

Mr.Nilesh Gala i/b Law Square for the Petitioner in WP-LD-VC-4-2020 and WP No. 40 of 2020.

Mr.Vivek Shukla i/b. V. Shukla & Associates for the Petitioners in IA-LD-VC-1-2020 in CP-LD-VC-33-2020 in WP No. 1531 of 2017, IA-LD-VC-1-2020 a/w. IA/LD-VC-2-2020 and WP-LD-VC-37-2020 a/w. IA-1-2020.

Mr.Karl Tamboly a/w. Ms. Naira Jeejeebhoy, Mr. Malcolm Sigamoria, Mr. K. Billimoria i/b. Desai and Chinoy for the Petitioners in WP-LD-VC-44-2020.

Mr.Girish Godbole a/w. Ms.Rujuta Patil, Ms. Niyati Kalra, Ms. Sonu Bhasi i/b. Negandhi, Shah and Himayatullah for Respondent No. 1 in IA-LD-VC-1-2020 in CP-LD-VC-33-2020 in WP No. 1531 of 2017, for Respondent No. 6 in IA-LD-VC-1-2020 a/w. IA/D-VC-2-2020 in WP No. 1529 of 2019, for Respondent No. 5 in WP-LD-VC-37-2020 a/w. IA-1-2020 and and for the Petitioners in WP-LD-VC-46-2020.

Ms.Aparna Kalathi i/b. P.G. Lad for Respondent Nos. 1 and 2 in IA-LD-VC-1-2020 a/w. IA-LD-VC-2020 in WP No. 1529 of 2019.

Mr.A.Y.Sakhare, Senior Advocate for MCGM

Ms Jyoti Chavan, AGP for the State in WP-LD-VC-4-2020 and WP No. 40 of 2020.

Mr.Milind More, Addl. G.P. for the State in WP-LD-VC-37-2020 and WP-LD-VC-44-2020.

Mr.Sharan Jagtiani, Sr. Adv. i/b. Purnanand and Company for Respondent Nos. 5 to 7 in WP-LD-VC-44-2020.

Mr.K.B.Dighe, AGP for the State in WP-LD-VC-46-2020.

**CORAM : S.J.KATHAWALLA AND
SURENDRA P.TAVADE, JJ.
DATE : JUNE 5, 2020.**

P. C. :

1. By an Order dated 22nd May 2020, this Court had directed the Municipal Corporation of Greater Mumbai ('MCGM') to file its Affidavit-in-Reply to the above Writ Petition. MCGM has till date not complied with the said direction.

2. There are hundreds of families in the city, who have handed over their original tenements/flats to the builders/developers by entering into written agreements with the builders/developers, wherein the builders/developers have assured the original owners / tenants that they shall redevelop their buildings and handover newly built flats to them. In the interregnum, such families started residing in transit camps or in accommodation which was procured on leave and license basis, on the strength of the builders / developers having agreed in writing to make monthly payments in lieu of temporary alternate accommodation. The builders / developers have taken several years (in some cases more than a decade), to complete the work of redevelopment and have also stopped paying compensation in lieu of temporary alternate accommodation. Consequently, since most of the families faced financial constraints, it became impossible for them to pay the monthly compensation to the landlords / licensors, because of which they virtually landed on the streets.

3. In view of the above, the tenants / owners of the tenements / flats either individually or through their association / cooperative societies, from time to time, approached the Courts and obtained necessary orders/directions against the builders / developers / MCGM, with the sole object of ensuring immediate completion of the redevelopment of their property and restoration of the roof over their heads, which they have lost since the last several years. In view of the court orders / directions, in a number of cases the redevelopment work is completed and the completion / occupation certificate remains to be applied for, or is already applied for and awaited.

4. Despite the above pathetic circumstances of such families who are longing to secure their legitimate roof over their heads, MCGM under the garb of its Circular dated 31st May, 2020, has started requisitioning the said buildings for providing quarantine / isolation facility. Consequently, the original tenants/owners are deprived of their very own residence. In view thereof, the Petitioners in the above Writ Petitions have challenged the aforestated action of the MCGM and the Circular dated 31st May, 2020. This action on the part of the MCGM, prima facie appears to be absolutely unjust and unfair and done with scant regard or consideration to the plight of those people who have no roof to call their own.

5. In view of the above, the Corporation shall file a detailed Affidavit, interalia setting out particulars of the houses/buildings/places in Mumbai, where they have started or have made arrangements to start the quarantine / isolation

facilities, the bed capacity of the said places and the number of individuals presently housed therein, on or before 9th June, 2020. Affidavit/s-in- Rejoinder if any, to be filed on or before 12th June 2020.

6 Stand over to 16th June, 2020, First on Board when the Court may dispose of the above Petitions finally. In the meantime, the Municipal Corporation shall maintain status quo as of today in respect of the premises forming the subject matter of all the above Writ Petitions.

7 If any of the Petitioners intend to carry out any amendment/s, they shall forward the draft amendment/s to the MCGM within a period of three days from today.

8. Mr.Vivek Shukla, Learned Advocate appearing for Mohd. Hussein Ali Mohd. Umatia and Ors. (Applicants and the Original Petitioners) in the above Contempt Petition has informed the Court that certain portion of their building has fallen and the builder / developer / Neelkamal Realtors Tower Private Limited has refused to provide transit accommodation. Mr.Godbole, Learned Advocate appearing for the builder / developer / Neelkamal Realtors Tower Private Limited has informed the Court that part of the transit accommodation building has collapsed in which 11 tenants were shifted. MCGM has provided accommodation to 04 of the tenants in a nearby school building and if the balance 07 tenants are not provided accommodation by MCGM, the builder / developer / Neelkamal Realtors Tower Private Limited shall do so. In view thereof, the builder / developer / Neelkamal Realtors Tower Private Limited is

directed to forthwith provide accommodation and / or to pay monthly compensation in lieu of temporary alternate accommodation to the 07 tenants.

9 This Order will be digitally signed by the Private Secretary of this Court. All concerned to act on production by fax or email of a digitally signed copy of this Order.

[SURENDRA P.TAVADE, J.]

[S.J.KATHAWALLA, J.]