

Prasad Rajput
(P.A.)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO.2023 OF 2019
IN
CONTEMPT PETITION STAMP NO. 2905 OF 2017**

Amit Malik and Ors. .. Applicants
IN THE MATTER BETWEEN:
Smt. Durga Pradeep Kale and Ors. Petitioners
Versus
Firoz Usman Tinwala and Anr. .. Respondents

-
- Mr. A. A. Garge i/b. Mr. Kashyap Bhalerao, for the Applicants.
 - Mr. V. S. Kapse a/w Mr. Dhananjayan Kadam, for the Respondent in IA and for Petitioner in CP.

.....
CORAM : MILIND N. JADHAV, J.

DATE : AUGUST 08, 2025

P. C.:

1. Heard Mr. Garge, learned Advocate for Applicants and Mr. Kapse, learned Advocate for Respondent.

2. At the outset Mr. Garge would submit that he may be permitted to implead SRA as party respondent in the Interim Application in view of the fact that according to instructions received by him the developer has been removed by SRA. He would submit that Contempt Petition filed by original Petitioners (22 flat purchasers) is against the developer. He would submit that since Applicants have substantive right in the flats which are part of the redevelopment scheme of SRA, request is made for impleadment of SRA to the Court

so that there is representation on the part of the statutory authority. Granting the request made by Mr. Garge, amendment is permitted and directed to be carried out forthwith in the presence of Court itself. Re-verification stands dispensed with. Though this Court is conscious of the fact that in the Contempt Petition SRA is not made a party but in view of the facts stated by Mr. Garge that the developer has been removed by SRA and this fact having endorsed by MR. Kapse present amendment is allowed.

3. Mr. Garge would persuade the Court to consider order appended at page No.17 of the Interim Application passed by this Court in the Contempt Petition filed by Mr.Kapse's clients who are similarly placed flat purchasers just like the 5 Applicants before me and submit that if similar order is passed in the Interim Application it would enure to the benefit of the Applicants - 5 flat purchasers.

3.1. He would submit that when Contempt Petition was filed by 22 similarly placed flat purchasers represented by Mr. Kapse at that time these Applicants i.e. the 5 flat purchasers did not join said 22 flat purchasers as applicants/Petitioners due to various reasons.

3.2. He would submit that by virtue of order dated 28.07.2017, Court Receiver has been appointed by this Court to enure to the benefit of the flat purchasers and protect the interest in their

respective flats. He would submit that ignominy of Applicants is evident from the fact that they have been made to run from pillar to post and approach RERA authorities now in view of the delay in completion of the project.

4. Application made by Mr. Garge is duly supported by Mr. Kapse, learned Advocate for Petitioner on behalf of the original Petitioners who have filed the Contempt Petition which is pending on the record and file of this Court.

5. After hearing Mr. Garge and perusing the record of the case it appears that an arguable case is made out by Mr. Garge. Hence issue notice to Respondents made returnable after two weeks. Humdast permitted.

6. In addition to Court notice, Applicant is permitted to serve a copy of the Interim Application and this order Respondents as also newly added Respondent – SRA and inform them about the next date of hearing by any permissible mode of service and file appropriate Affidavit of service with tangible proof thereof on or before the next date.

7. After receiving notice, Respondents are directed to take cognizance of this order and file Affidavit-in-Reply on or before the next date, if so desired.

8. Stand over to **19th August, 2025**. To be placed on the
'Supplementary Board'.

ER. Rajput

[MILIND N. JADHAV, J.]