

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION (L) NO. 7333 OF 2023
IN
WRIT PETITION NO. 2157 OF 2021
WITH
INTERIM APPLICATION (L) NO. 11715 OF 2023
IN
INTERIM APPLICATION (L) NO. 7333 OF 2023
IN
WRIT PETITION NO. 2157 OF 2021**

Sakshi Shankar Shinde & Ors ...Applicants
In the matter between
Kapilkunj Co-operative Housing Society Ltd ...Petitioner
Versus
State of Maharashtra & Ors ...Respondents

WITH
INTERIM APPLICATION (L) NO. 3384 OF 2022
IN
WRIT PETITION NO. 2157 OF 2021
Rajesh Madhukar Chavan ...Applicant
In the matter between
Kapilkunj Co-operative Housing Society Ltd ...Petitioner
Versus
State of Maharashtra & Ors ...Respondents

WITH

WRIT PETITION NO. 2157 OF 2021

Kapilkunj Co-operative Housing Society Ltd ...Petitioner
Versus
State of Maharashtra & Ors ...Respondents

**Mr Nitin Gaware, i/b Mohan B Gawade, for the Applicants in
IA(L)/7333/2023 & WP(L)/3329/2022.**

**Mr Mayur Khandeparkar, with Priyank Shukla & Manjiri Phansikar,
i/b RD Misra, for the Applicants & Petitioner in
WP(L)/3329/2022.**

**Mr JS Kini, with Aum Kini, i/b Sapna Krishnappa, for the
Petitioner in WP/2157/2021.**

**Mr Prithviraj S Gole, i/b Sandesh D Patil, for Respondent No. 2-
SRA.**

Mr LT Satelkar, AGP, for the Respondent-State.

**Mr Rubin Vakil, with Manish Doshi & Heena T, i/b Vimadalal &
Co, for Respondent No. 3.**

**CORAM G. S. Patel &
Neela Gokhale, JJ.**
DATED: 20th June 2023

PC:-

INTERIM APPLICATION (L) NO. 7333 OF 2023:

1. This is filed by individuals who have independent reliefs against the Developer and possibly the Slum Rehabilitation Authority (“SRA”). There is no question of them intervening in the Writ Petition filed by the society. It is inconceivable that by “intervening” and “participating” these persons can seek substantive relief against either the SRA or the Developer. They

must file their own Petition. The Interim Application is dismissed. This is however without prejudice to their rights and contentions which may be taken up in a properly instituted separate Writ Petition. The Interim Application is to be finally numbered for statistical purposes.

2. The Applicants say that their possession must be protected. There is no prayer for such a relief. An interventionist is, we are supposed to believe, entitled to substantive injunctive relief against the Developer and the SRA without there being a prayer, without there being a substantive proceeding and just on a statement made across the bar. These Applicants are, apparently, facing eviction proceedings under the Slum Rehabilitation Act, 1995. Those must continue. We say this because to our question as to who put them in possession, the only answer we get from the Developer, the SRA and everybody else is “not I”. While we dictate this, we are now told that the Developer put these persons into possession. We do not understand how that could be because these are not free sale units at all. They are what are called ‘Permanent Transit Camps’ (“PTC”). A proposal to allow these units to be converted to free sale units has not yet been approved and yet the Developer has entered into multiple registered agreements for these units, taken consideration, and parted with possession.

3. What the Applicants have done in regard to the Developer is unclear and is not stated. To protect ‘possession’ as it is called in these circumstances, is simply not possible.

4. In view of dismissal of Interim Application (L) No. 7333 of 2023, Interim Application (L) No. 11715 of 2023 pending therein shall also stand disposed of.

INTERIM APPLICATION (L) NO. 3384 OF 2022:

5. This Interim Application is identical. It also seeks impleadment and participation. The Applicants have already filed Writ Petition (L) No. 3329 of 2022. Unfortunately, it is not on board. We do not see how the Applicants can seek intervention in someone else's Writ Petition and also file (correctly) their own Writ Petition. The Interim Application is thus dismissed but again without prejudice to all the rights and contentions that are taken in the Writ Petition.

6. The Applicants who claim the same premises as the Applicants in the previous Interim Application have a registered agreement of 2012. At that time this was a municipal project with an Intimation of Disapproval. The Developer then converted it to an SRA project, changed the structure to a PTC and sold it to later purchasers in 2018. The present Applicants hold a decree in respect of these premises from the Consumer Forum. That will obviously be taken up in Writ Petition (L) No. 3329 of 2022.

WRIT PETITIONS

7. Writ Petition (L) No. 3329 of 2022 will be tagged along with Writ Petition No. 2157 of 2021 subject to removal of office objections and final numbering.

8. List both Writ Petitions on 28th June 2023 high on board.

(Neela Gokhale, J)

(G. S. Patel, J)