

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 2157 OF 2021**

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

WITH

WRIT PETITION (L) NO. 3329 OF 2022

Rajesh Madhukar Chavan ...Petitioner
Versus
State of Maharashtra & Ors ...Respondents

Mr JS Kini, *with Aum Kini, i/b Sapna Krishnappa, for the
Petitioner in WP/2157/2021 and for Respondent No. 4 in
WP/3329/2022.*

Mr Girish Godbole, *Senior Advocate, i/b Divya Parab, for the
Petitioner in WPL/17385/2023.*

Mr Mayur Khandeparkar, *with Manjiri Parasnisi, Priyank Shukla &
Akkshay H Kumar, for the Applicant.*

Mr SB Gore, *AGP, for the Respondent-State in WP/2157/2021.*

Mrs Uma Palsuledesai, *AGP, for the Respondent-State in
WPL/3329/2022.*

Mr Rubin Vakil, *with Manish Doshi & Heena T., i/b Vimadalal &
Co, for Respondent No. 3 in WP/2157/2021 & for
Respondent No. 5 in WP/3329/2022.*

CORAM G. S. Patel &
Neela Gokhale, JJ.

DATED: 28th June 2023

PC:-

1. It is clear that the developer, 3rd Respondent Shreenath Construction has taken money from both Mr Khandeparkar's client for two flats and Mr Godbole's client for six flats. The consideration paid by Mr Godbole's client is Rs. 3,51,11,000/- in the aggregate and that by Mr Khandeparkar's clients is Rs. 71,63,000/-.
2. In addition, there is a claim by Mr Kini for the society for unpaid arrears of transit rent roughly estimated at Rs. 80 lakhs for the past period.
3. Under no circumstances, will we permit a developer to sell the same flats to different people regardless of their categorization or the nature of the scheme or whether it has changed. Both Mr Khandeparkar's clients and Mr Godbole's clients have registered agreements (the former being earlier in time).
4. We will also not permit the developer to say or even be heard to say that since the society is in possession, therefore it has no obligation to pay accumulated arrears of transit rent.
5. All three amounts are required to be deposited in the Court by 4.30 p.m. on Monday, i.e., 3rd July 2023. We are making it clear that if the entire amount is not deposited by that date, we will order the cancellation and termination forthwith of the developer's Development Agreement, Letter of Intent or the NOC, as the case may be.

6. The matter is to be listed first on the Supplementary Board on Tuesday, i.e., 4th July 2023.
7. All the Affidavits and Compilations are to be filed in the Registry.
8. The proprietor of Shreenath Construction is personally present in the Court.
9. No coercive steps to be taken against any of the occupants or the Society members until next date.

(Neela Gokhale, J)

(G. S. Patel, J)