



903-oswp357

2024:BHC-OS:15160-DB

AGK

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

**WRIT PETITION NO.3571 OF 2023**

Confederation of Real Estate  
Developers Association of India ... Petitioner  
**V/s.**  
The State of Maharashtra, through  
the Principal Secretary ... Respondent

**WITH  
PUBLIC INTEREST LITIGATION NO.83 OF 2019  
WITH  
PUBLIC INTEREST LITIGATION NO.109 OF 2019  
WITH  
WRIT PETITION NO.1292 OF 2018**

Vijendra Kumar Rai ... Petitioner  
**V/s.**  
The State of Maharashtra & Ors. ... Respondents

**WITH  
CONTEMPT PETITION (L) NO.5058 OF 2024  
IN  
PUBLIC INTEREST LITIGATION NO.109 OF 2019**

Navalben Kantilal Karia ... Petitioner  
**V/s.**  
The State of Maharashtra & Ors. ... Respondents

**WITH  
CONTEMPT PETITION (L) NO.3760 OF 2023  
IN  
PUBLIC INTEREST LITIGATION NO.109 OF 2019**

Vijendra Kumar Rai ... Petitioner  
**V/s.**  
The State of Maharashtra & Ors. ... Respondents

**WITH  
CONTEMPT PETITION (L) NO.29681 OF 2023**



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IN  
PUBLIC INTEREST LITIGATION NO.109 OF 2019

|                                 |                 |
|---------------------------------|-----------------|
| Sadiq Ali Abbas                 | ... Petitioner  |
| <b>V/s.</b>                     |                 |
| The State of Maharashtra & Ors. | ... Respondents |

WITH  
CONTEMPT PETITION (L) NO.5661 OF 2024  
IN  
PUBLIC INTEREST LITIGATION NO.109 OF 2019

|                                 |                 |
|---------------------------------|-----------------|
| Mohammad Sharif Gulam           |                 |
| Rasool Shaikh                   | ... Petitioner  |
| <b>V/s.</b>                     |                 |
| The State of Maharashtra & Ors. | ... Respondents |

WITH  
INTERIM APPLICATION NO.3179 OF 2023  
IN  
PUBLIC INTEREST LITIGATION NO.109 OF 2019

|                                 |                 |
|---------------------------------|-----------------|
| Haseena Istiyak Ansari          | ... Applicant   |
| <b>In the matter between</b>    |                 |
| Vijendra Kumar Rai              | ... Petitioner  |
| <b>V/s.</b>                     |                 |
| The State of Maharashtra & Ors. | ... Respondents |

WITH  
WRIT PETITION (L) NO.26454 OF 2023

|                                 |                 |
|---------------------------------|-----------------|
| A.B. Builders & Developers      | ... Petitioner  |
| <b>V/s.</b>                     |                 |
| The State of Maharashtra & Ors. | ... Respondents |

WITH  
WRIT PETITION NO.115 OF 2024

|                                     |                 |
|-------------------------------------|-----------------|
| Royal Netra Constructions Pvt. Ltd. | ... Petitioner  |
| <b>V/s.</b>                         |                 |
| The State of Maharashtra & Ors.     | ... Respondents |



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**WITH  
INTERIM APPLICATION (L) NO.7753 OF 2024**

Jainabbee Salim Mohd Shaikh ... Applicant  
**V/s.**  
Royal Netra Construction Pvt. Ltd. ... Respondent

Ms. Rebecca Gonsalves, Amicus Curiae in  
PIL/109/2019, CONPPL/3760/2023, PIL/83/2019, &  
WP/ 1292/2016.

Mr. Vijendra Kumar Rai, Petitioner in-Person in PIL/109/  
2019, PIL/83/2019, WP/1292/2018, WPL/3760/2023.

Mr. Karl Tamboly with Mr. Abhishek Kothari, Mr. Samit  
Shukla, Ms. Saloni Shah, Mr. Mustafa Nalwala i/b DSK  
Legal for the Petitioner in WP/3571/2023.

Mr. Aditya Miskita with Mr. Nivit Srivastava, Mr. Amit  
Hailkar i/b Maniar Srivastava Associates for Petitioner  
in WP/115/2024.

Mr. Vijay Patil, for respondent Nos.2,3,4/SRA in  
CONPPL/ 5058/2024 and for Resp. No.2 to 5/SRA in  
CONPPL/5661/2024 and for respondent Nos.1 and 2/  
SRA in CONPPL/29681/2023.

Mr. A.Y.Sakhare, Senior Advocate with Mr. Vijay Patil for  
respondent No. 6/SRA in PIL/109/2019 and for  
respondent No.2 and 3/SRA in CONPPL/3760/2023.

Mr. Arun Panickar with Mr. Vinay Nair, for respondent  
No. 4 in WPL/30811/2023.

Ms. Vrushali U Kabare, AGP for respondent/State in  
PIL/109/2019, CONPPL/29681/2023 and CONPPL/  
5661/2024

Mrs. Uma Palsuledesai AGP for State in WP/3571/2023.

Mr. Abhay L Patki Additional G.P. respondent/State in  
PIL/83/2019.

Mr. Prashant Kamble, AGP for State in  
CONPPL/5058/2024.

Mr. Mohit Jadhav, Additional G.P. for State in  
WP/1292/2018 and WPL/26454/2023.

Mr. Dipesh Siroya, AGP for respondent/State in  
WP/115/2024, IAL/7753/2024.



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Mr. Y. R. Mishra with Mr. D. P. Singh for respondent No.22 in PIL 109/2019 (UOI).

Mr. Jagdish G Aradwad (Reddy), for Respondent Nos.2,3 in WPL/26454/2023 and respondent No. 7 to 10 in WP/1292/2018 and respondent No. 13 to 16 in PIL/83/2019.

Dr. Birendra Saraf, Senior Advocate (Advocate General) with Mr. Jagdish G. Aradwad (Reddy), Mr. Vaibhav Charalwar for respondent Nos.2 & 3/SRA in WP/3571/2023.

Mr. Jagdish G Aradwad Reddy with Mr.Vaibhav Charalwar for respondent Nos.2 & 3/SRA in WP/115/2024.

Mr. Jamshed Master, Ms. Kinjal Upadhyay i/b Mr. Jayesh Vyas for respondent No.17 in PIL 109/2019.

Mr. Shakeeb Shaikh with Mr. Haaris Reshmwala, i/by Diamondwala & Co. for respondent Nos.9 to 16 in PIL 109/2019.

Mr. Viraj Raiyani i/by AVP Parteners for respondent No. 21 in PIL 109/2019.

Ms. Oorja Dhond i/by Ms. Komal Punjabi for respondent/BMC in PIL/83/2019 and PIL/109/2019.

**CORAM : DEVENDRA KUMAR UPADHYAYA, CJ & AMIT BORKAR, J.**

**DATED : OCTOBER 1, 2024**

**P.C.:**

1. One of the issues engaging attention of this Court in this batch of writ petitions is the validity of the Government Resolution dated 1st August 2023 whereby certain measures have been provided for ensuring timely payment of transit rent.



2. Under an order passed by the Hon'ble Supreme Court on 30th July 2024 in Civil Appeal No.8127 of 2024 (2024 SCC OnLine SC 1840), this Court has registered a suo-moto writ petition for conducting a judicial audit into the functioning of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971. The Hon'ble Supreme Court, while referring the matter to this Court for initiating suo-moto proceedings for reviewing the working of the Act to identify the cause of problems indicated in the order itself, has directed that the concerned Bench will hear the government, the statutory authorities, necessary stakeholders including intended beneficiaries, and also take assistance of some senior members of the Bar.

3. Thus, the review in the suo-moto proceedings registered by this Court under the said order of the Hon'ble Court is to be undertaken in respect of the working of the Act to identify the causes of problems which are indicated in paragraph 34 of the order which is quoted hereunder:

*"34. The exasperation of the High Court about working of the Act is understandable. The present appeal is a classic example of why the High Court's concern is genuine. It has been noticed that the statutory scheme is problematic with respect to: i) Identification and declaration of land as a slum.*



*This problem involves an examination of the role of authorities in giving such recognition, insidious intervention of builders in the said process cast doubts on the independence and integrity in the decision-making process; ii) Identification of slum dwellers: This involves a complicated process of proof of such a status, the attendant problem of groupism, giving rise to competing claims inevitably leading to litigation; iii) Selection of a developer: The Act leaves this decision to the cooperative society of slum dwellers and the majority decision is manipulated by competing and rival developers; iv) Apportionment of the slum land between redevelopment area and sale area: This is yet another area where court has witnessed developers seeking to increase the proportion of the sale area, leading to contestation; v) Obligation to provide transit accommodation for the slum dwellers pending redevelopment: Invariably, we see instances where the developer does not provide transit accommodation within time or provides an inadequate alternative in the form of a quantified amount towards rent, On the other hand, there are instances where some slum dwellers refuse to vacate the premises on the ground that the transit accommodation is either inconvenient or the amount offered is insufficient; vi) There are also issues of lack of independence and objectivity in the functioning of statutory authorities: This is a matter of serious concern. Courts have witnesses that the authorities have no independence and, their tenure is also short. Additionally, the functioning of these statutory authorities gives an indication that there could be a regulatory capture; vii) Another concern which exists is about the effectiveness of statutory remedies: Statutory remedies are ineffective and at the same time, lacking in accountability and vii) Judicial review proceedings under Art. 226 cannot be a long-term solution: We have given details of the number of writ petitions pending before the High Court in Para 33."*

4. Paragraph 42 of the order of the Hon'ble Supreme Court dated 30th July 2024 is also extracted herein below:



*"42. In light of the foregoing, considering that the Act is a state-legislation, implementation of which lies with the State of Maharashtra, and till date no comprehensive statutory audit has been undertaken, we request the Ld. Chief Justice of the Bombay High Court to constitute a bench to initiate suo motu proceedings for reviewing the working of the statute to identify the cause of the problems indicated in Paragraph 34. The concerned bench will hear the government, the statutory authorities, the necessary stakeholders including intended beneficiaries and perhaps take the assistance of some senior members of the bar specialising in this area as amici curae. We leave it to the High Court to devise such methods as it deems fit and appropriate. Having examined the matter, the bench may consider directing the government to constitute a committee for performance audit of the Act. The court's jurisdiction extends only to that extent, and no further. The law-making, including amendments, is the exclusive domain of the legislature."*

5. In this batch of petitions, it is not only that the Government Resolution dated 1st August 2023 is under challenge; but certain other writ petitions have been filed seeking appropriate directions, not only for appropriate working of the Act but also for taking adequate measures by the authorities concerned for protection of the slum dwellers and their rights.

6. Accordingly, having regard to the aforesaid aspects of the matter, we deem it appropriate that this batch of writ petitions shall also be heard along with Suo Moto Writ Petition No.1 of 2024.



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7. Let the papers of this batch of petitions be placed before the Bench hearing said Suo Moto Writ Petition No.1 of 2024 after seeking requisite orders on the administrative side.

(AMIT BORKAR, J.)

(CHIEF JUSTICE)