

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 3371 OF 2022

Clifford Theodore Dsouza & Ors. ...Petitioners
Versus
State Of Maharashtra & Ors. ...Respondents

Mr. Kaustubh Kandpile a/w Ms. Tanvi Parmar i/b Deven Dwarkadas & Partners
for Petitioner.

Mr. Suraj Gupte, AGP for State.

Mr. P. G. Lad a/w Ms. Aparna Kalathil & Ms. Sayali Apte for Respondent Nos. 2
and 3.

Mr. A. Y. Sakhare, Senior Advocate a/w Ms. Pushpa Yadav i/b Ms. Komal Punjabi
for Respondent No. 4 BMC.

Mr. Amit Sonawane, Sub Engineer, Building Proposal, G/N, present.

Mr. Bhuvanesh Warde, Partner of Respondent No. 7, present.

Mr. Dhiraj Chavan a/w Punav Mirlekar for Respondent Nos. 12, 13 and 14.

CORAM: G. S. KULKARNI &
ARIF S. DOCTOR, JJ.

DATE: 2nd JULY 2025

P.C.

1. As a matter of last chance, we adjourn the proceedings as Mr. Bhuvanesh Warde, father of Respondent No. 7 who appears in person, seeks time. The case concerns development of the building which has been undertaken under Regulation 33(7) of DCR, for which No Objection Certificate was obtained from MHADA. The building is constructed of which 18th floor was illegally constructed, which was sought to be regularized. However, the fact remains that there is no occupation certificate which has been granted. Despite this, not only the tenants

but also the persons to whom the free sale flats were sold have been granted possession. All such persons are illegally occupying their tenements. In such circumstances, the law needs to take its own course, more particularly considering Section 52 read with Section 353B of the Mumbai Municipal Corporation Act, 1888. Apart from this, if a building is illegally occupied and which has no occupation certificate, the Court would be required to pass drastic orders, to ask all the illegal occupants to vacate the building and direct the Corporation to seal the building, till appropriate formalities in regard to occupation and most importantly the structural stability of the construction and fire safety norms are complied with.

2. But before we pass such orders, we would intend to hear Respondent Nos. 6 to 11, who have undertaken construction who represented today by Mr. Bhuvanesh Warde in person.

3. We may also observe that the tenants, who are illegally occupying their tenements also need to take a reasonable view of the matter and co-operate with Respondent Nos. 6 to 11 for any compliances.

4. Stand over to **9th July, 2025 (HOB)**.

5. At this stage, we are informed that the Petitioner No. 1 has not taken possession.

6. Our orders passed earlier prohibiting sale of any of the tenements, if not already sold, shall continue to operate till the adjourned date of hearing.

(ARIF S. DOCTOR, J.)

(G. S. KULKARNI, J.)