

Shephali

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 Aditya Pimple, with Sagar Pillai, i/b Deven Dworkadas, for the
Petitioners.

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

Mr PG Lad, with Sayli Apte & Shreya Shah, for the Respondent-
MHADA.

CORAM G.S. Patel &
Kamal Khata, JJ.

DATED: 2nd January 2024

PC:-

1. The three Petitioners are among the several occupants of a redeveloped building at Mahim. The complaint that although the construction is complete, they have not yet been put in possession and this is because no Occupancy Certificate (“OC”) has yet been obtained.

2. The OC will need to be issued by the Municipal Corporation of Greater Mumbai (“MCGM”), but that can only be done once Maharashtra Housing and Area Development Authority

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(“MHADA”) confirms that all certified tenants/occupants have been re-accommodated. Once that MHADA NOC is issued, the MCGM will then have to check whether the construction is in conformity with sanctioned plans and meets all other requirements (including fire safety, water connection etc) so that an OC can be issued.

3. The Respondents Nos 6 to 11 constitute the partnership firm and its partners who have developed the building. They are entirely unresponsive. Mr Lad for MHADA states that list of persons re-accommodated is to be furnished by the developers. But if the developers do not provide this information, it surely cannot be that the occupants are prejudiced as a consequence.

4. Mr Lad states that the Executive Engineer G/North Ward will inspect the entire building and will write to each of the certified tenants as to whether they have been offered/allotted Permanent Alternative Accommodation (“PAA”) in the reconstructed/redeveloped building. That process is likely to take a few weeks. Once that is done, further orders can be made in regard to the MHADA NOC and the OC by the MCGM.

5. In the meantime, the Registry will issue notice to Respondents Nos 6 to 11 at the address given at the cause title of the Suit. The developers and its partners are put to notice that should they fail to appear on the next date, an order may be made against them, including not only in costs but also for payment of such amounts as may be found due as arrears of transit rent.

6. Leave to file additional Affidavit in the Registry. Copies are to be served on all the Respondents/their Advocates.

7. List the matter on 29th January 2024.

(Kamal Khata, J)

(G. S. Patel, J)