

Prajakta Vartak

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

WRIT PETITION NO. 2553 OF 2023
WITH
IN PERSON APPLICATION (L.) NO. 40197 OF 2025

Smt. Laxmi Nivruti Kamble ...Petitioner
Vs
Public Works Department & Ors. ...Respondents

Petitioner-Smt. Laxmi Nivrutti Kamble in person present.
Ms. Nazia Shaikh, AGP for State.
Mr. P. G. Lad with Ms. Sayli Apte for Respondent/MHADA.
Mr. Shakeeb Shaikh for Respondent No.5.

CORAM: G. S. KULKARNI &
AARTI SATHE, JJ.
DATE: 21 JANUARY 2026.

P.C.

1. Having perused the petition and the reply affidavit as placed on record, *prima facie*, we are of the opinion that there is no valid document whatsoever by which a trespasser and/or encroacher in the BDD chawl tenement of the petitioner could have been legitimately conferred a tenement. The petitioner is a widow who is 80 years old. She has been knocking the doors of various authorities for the last more than 25 years. The record is replete with such representations and repeated applications. She had also approached the Legal Aid Services and accordingly, the present petition came to be filed.

2. The basic issue for consideration is when the petitioner's deceased husband was admittedly accepted as the lawful occupant and tenant of the tenement in question, as to what was the right of respondent no.5's father, namely Mr.

Namdeo Shinde, who himself was a trespasser, as he was occupying the tenement in question under a gratuitous arrangement with the deceased husband of the petitioner, to have shockingly got the tenancy regularized in his name ousting all the rights of the petitioner's deceased husband and now of the petitioner. There is also a reference to what, in our opinion, appears to be sham and bogus eviction proceedings against the petitioner's husband, which appear to have been always thrown at the face of the petitioner in asserting that the petitioner has no legitimate legal right qua the tenement. It is asserted that the record and proceedings of the eviction being old are destroyed/not available. Thus, the question that remains is as to in what manner, when the competent authority is on record, to state that the petitioner's deceased husband was the lawful tenant, as to how such tenancy was extinguished without any lawful procedure and/or in the absence of any surrender of the tenancy. There is not an iota of material to that effect.

3. In the aforesaid circumstances, as the building is now ready and the permanent alternate tenement is likely to be allotted to the legal heirs of the deceased Namdev Shinde, i.e. respondent nos.5 to 8, we order that the Court Receiver, High Court, Bombay, be appointed as Receiver in respect of the said flat to be allotted. The allotment shall be made in favour of the Court Receiver. Accordingly, as and when the permanent alternate tenement is sought to be allotted, the keys thereof shall be handed over to the Court Receiver, who shall be in physical possession of the said tenement, without royalty charges or fees.

4. We appoint Mr. Siddhesh Bhole, Advocate, as *amicus curiae* to assist the Court on behalf of the petitioner. We direct that copies of the record and proceedings be handed over by the office to advocate Mr. Siddhesh Bhole.

5. We shall hear the parties on this petition finally on **09 February 2026 at 03.00 p.m.**

6. Mr. Lad contended that respondent no.5 is unfortunately occupying a transit tenement. Mr. Lad's contention is that if this is the state of affairs, respondent no.5 ought not to occupy even the transit tenement. We shall pass appropriate orders in this regard on the adjourned date of hearing.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)