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

WRIT PETITION NO. 2553 OF 2023

Laxmi Nivruti Kamble ... Petitioner
Versus
Public Works Department and Ors. ... Respondents

Ms. Trupti Nirvuti Kamble and Laxmi Nivruti Kamble, Petitioner present in person.

Mr. P.G. Lad a/w Mr. Murlidharan Kalathil for Respondent-MHADA.

Ms. Nazia Sheikh, AGP for Respondent-State.

Mr. N.C. Pawar Court Receiver present.

Mr. Siddesh Bhole a/w Mr. Yakshay Chedda, Gauri S. Bandre, Amicus Curiae.

Mr. Shakeeb S. Shaikh for Respondent No.5.

CORAM: G. S. KULKARNI &
AARTI SATHE, JJ.

DATE: 24 FEBRUARY 2026

P.C.

1. On 21st January 2026, we had passed a detailed order on this Petition, which reads thus :-

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.

2. We have also perused the Affidavit filed on behalf of the State Government. We have observed in our earlier order that the Petitioner, who is 80 years of age and a widow, has been knocking on the doors of the authorities for the last 25 years asserting her legal rights in respect of the tenanted room which, at the relevant time, was situated in the B.D.D. Chawl.

3. We have also perused the additional affidavit filed on behalf of Mr. Anil Eknath Panad, Manager, B.D.D. Chawl, Worli, Mumbai-18, which reiterates that the relevant records are not available. From what has been placed before us, it is evident that there is no document whatsoever extinguishing the tenancy of the Petitioner's deceased husband in respect of the room in question, on which the Petitioner asserts her rights.

4. There is also no record indicating the manner in which the tenancy was created in favour of the deceased father of Respondent No. 5, nor is there any material showing the consideration for such creation, much less whether it was lawful. Even if it was so made, it appears to have been done, without lawful extinction of the tenancy of the Petitioner's deceased husband in a manner known to law, who at all material times was recognised as the lawful tenant.

5. In this view of the matter, having heard Mr. Siddhesh Bhole, learned Amicus Curiae, Mr. Lad, learned counsel for MHADA, and the learned counsel appearing for the concerned parties, we are of the opinion that the proceedings are required to be listed for final hearing.

6. However, we cannot be unmindful of the observations made in our order dated 21st January 2026, and prior thereto, the order passed by the co-ordinate Bench of this Court dated 13th March 2023, i.e., almost three years ago, which reads thus:

1. The Petitioner is about 80 years old. Her case is listed today at Sr. No. 161. We noticed her entering the Court, evidently with some difficulty. She has been waiting almost the entire day. We therefore asked the Court Master to identify her case from the list and we were told it is at Sr. No. 161.

2. We took up the matter out of turn, initially to see if we could give it priority over the next few days. Fortunately, Mr Thipsay, her Advocate was present in Court. With his assistance we were shown some of the relevant facts. The Petitioner claims that she was a lawful occupant and a tenant of room No.21 Chawl, 23-B BDD Chawl, Naigaon, Mumbai 400014. Her father-in-law was the original occupant since 1905. His name was Rama Kamble. The Petitioner married one Nivruti Kamble, Rama Kamble's son, in 1955 and came to live in these premises. From her marriage with Nivruti, she had three children, two sons and one daughter. Her sons have unfortunately passed away. Her daughter,

Trupti, who is with her in court, is unmarried. In 1961, the Petitioner's father-in-law passed away. The Petitioner claims that the tenancy passed on to her husband Nivruti and they continued staying there after her father-in-law's demise and were paying rent to the Public Works Department. They got an electric meter in their own name.

3. In 1970 or 1971, a distant relative requested the family to accept one Namdeo Shinde, the father of Respondents Nos. 5 to 8, to reside with them as a guest in these premises for a few days. This is the genesis of what has befallen the Petitioner, as set out in the Petition. The short point, according to the Petitioner, is that Shinde came to stay and then took over the house. She and her husband faced proceedings for 'unlawful subletting' They have gone to one authority after another, but to no avail.

4. The Petitioner says she has been thrown on the streets. She has no roof on her head. Quite literally, she lives out in the open at Azad Maidan, and occasionally faces forcible eviction and evacuation from there by the police. She has been rendered homeless. It seems that the Petitioner's health is so poor that her daughter cannot leave her alone and therefore cannot take up a job.

5. We will take up the matter on a priority basis. We will endeavour to see if some arrangement, at least temporarily and on a no equities basis can be made for the Petitioner.

6. Since this involves the BDD Chawls, which are owned by the Maharashtra Housing Area and Development Authority ("MHADA"), we request the intervention and assistance of Mr PG Lad. A set of papers shall be provided to him. We also request the Mr Thipsay to give private notice to the 5th Respondent said to be in residence in Room No.21 enclosing a copy of this order and stating that the matter will be taken up for urgent interim or ad-interim relief on the supplementary board on Thursday, 16th March 2023 at 10:30 am.

7. We request Mr Lad to keep available the MHADA files in regard to Room No.21.

7. In the facts and circumstances of the case, we are of the clear opinion that the alternate tenement now to be allotted is Tenement No. 902 in BDD Chawl, as noted in our order dated 9th February 2026. We have already appointed the Court Receiver, High Court, Bombay, and the Court Receiver has taken over physical possession. The keys have also been handed over to the Court Receiver as observed in the said order dated 9th February 2026. The Court Receiver has placed on record his report dated 20th February 2026.

8. Mr. Lad, learned counsel appearing for MHADA, has submitted that the Occupation Certificate is in the process of being granted and that upon the same shall be issued, in favour of the Court Receiver and handed over to him. In this regard he states that on the very day the O.C. is granted, the Court Receiver shall be duly informed.

9. In the peculiar facts and circumstances of the present case, we permit the Court Receiver to hand over physical possession of the suit premises to the Petitioner. Such handing over shall be subject to further orders that may be passed in these proceedings. The Petitioner shall be granted possession as an agent of the Court Receiver without payment of any royalty or any charges whatsoever. The requirement of executing a formal agency agreement is dispensed with.

10. With the aforesaid observations, liberty to the parties to apply after the pleadings for final hearing are duly completed.

11. The Court Receiver's Report stands disposed of in terms of prayer clause (a).

12. Mr. Siddhesh Bhole, learned Amicus shall forward all contact details of the Petitioner to the learned Court Receiver.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)