

Gaikwad RD

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
WRIT PETITION (L) NO. 26013 OF 2022**

Laxmi Nivruti Kamble ...Petitioner  
*Versus*  
Public Works Department & Ors ...Respondents

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**Mr Ashutosh Thipsay, with Shakeeb Shakeel Shaikh Legal Aid  
Counsel, for the Petitioner.**

**Mr PG Lad, with Sayli Apte & Shreya Shah, for Respondent No.2-  
MHADA.**

**Mr Abhay Patki, Addl. GP for Respondent Nos.1 & 9-State.**

**Mr Sanjay Ahire, Chawl Superintendent is present.**

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**CORAM G.S. Patel &  
Neela Gokhale, JJ.**

**DATED: 29th March 2023**

**PC:-**

1. We have a signed statement from Mr Ashutosh Thipsay, learned Advocate of this Court. He was appointed or engaged by the Maharashtra Legal Services Authority to represent the Petitioner.

2. The previous orders indicate that we were told on the first occasion that the Petitioner had only three children: two sons and a daughter. The two sons had, we were told, passed away. The Petitioner claimed that she had been thrown out of her residence in

one of the MHADA BDD Chawls by somebody who was permitted to stay as a guest for a few days. That person had not appeared before us. We issued notice to him. He appeared on the last occasion, i.e., 16th March 2005, being the 5th Respondent and said that the Petition proceeded on material falsehoods. For the Petitioner had not three but seven children. At least one other daughter was alive and was a police constable occupying official quarters. He stated that the Petitioner actually resides with that other daughter. The 5th Respondent also said that there was some eviction proceeding by which the 5th Respondent's father came into possession.

3. We had made it clear that we were not disturbing the possession of Respondent No. 5.

4. We had earlier set out the reason why we had taken the matter out of turn.

5. But Mr Thipsay's report which we take on record and mark "X-1" for Identification with today's date paints a different picture. As an advocate of this Court, he was duty bound to obtain information to respond to our queries. Instead, he was confronted by the Petitioner and her daughter Trupti who maintained that he should not have allowed the Respondents to argue. Their conduct got increasingly aggressive, according to Mr Thipsay, including in the offices of the Legal Services Authority and in the presence of our Member Secretary, Mr Surana. Mr. Thipsay was entirely unable

to elicit an answer about the number of children and whether the Petitioner has another daughter.

6. The Petitioner and Trupti are present in the Court today. We are not inclined to entertain them immediately or give them any priority if this is the way they want to approach the matter. They seem to have had absolutely no concern for the fact that it is this Court that took the matter out of turn. Obviously, this Court will need to be satisfied that what is said in the Petition is genuine. Now before us, Trupti and her mother say that there were indeed more children than three, that the Petitioner has another daughter, Mangal, who is indeed a police constable and who occupies official accommodation. We asked why the Petitioner and Trupti do not live with Mangal and we are now told for the first time that it is because she allegedly does not look after these two ladies. But this is not what the Petition says. Mr Thipsay points out that the Petition was read over and explained in Marathi to the Petitioner. The Petition expressly proceeds on the footing that the Petitioner had only three children and that her only legal heir is her unmarried daughter, Trupti Nivrutti Kamble. This is so stated in paragraph 6.2 at Page No. 8 of the Petition and we reproduce that paragraph.

“6.2 The Petitioner married Shri Nivruti Kamble sometime in the year 1955 and came to reside in the said premises. The Petitioner had two sons and a daughter. Both her sons are now deceased and her only legal heir as on date is her unmarried daughter viz. Trupti Nivruti Kamble.”

7. In light of these circumstances, while Mr Thipsay is discharged, we will request Mr Surana to consider if another advocate could be appointed.

8. No further orders are required at this stage. Mr Lad's Affidavit on behalf of the MHADA will be filed by Friday, 31st March 2023.

9. Mr Patki appears for PWD. Their affidavit is already filed. Mr. Patki explains that on routine inspection, the PWD found that the 5th Respondent's father was in possession and that the Petitioner's husband had already left the premises and none from the Petitioner's family was present in the flat in question. That is how the Petitioner's family's name was removed from the flat and the name of the 5th Respondent's father entered. This is also in material distinction to what is alleged in the present petition.

10. List the Petition on 19th April 2023.

**(Neela Gokhale, J)**

**(G. S. Patel, J)**

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