

ITEM NO.18

COURT NO.6

SECTION IX

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

SPECIAL LEAVE PETITION (CIVIL) Diary No(s).1225/2025

[Arising out of impugned final judgment and order dated 23-02-2024 in WP No.1048/2024 and order dated 03-01-2025 in WPST No. 31690/2024 passed by the High Court of Judicature at Bombay]

HAFIZA BI &amp; ORS.

Petitioner(s)

VERSUS

THE TAHSILDAR I SPECIAL DESK &amp; ORS.

Respondent(s)

(1)Other I/O NOT FILED, MAIN PRAYER NOT CLEAR, PLZ CLARIFY, MATTER WILL BE RECHECKED AFTER CLARIFICATION ((DEFECT NO. 3 IS STILL AS ON 25.01.25)) (2)Other PLZ CLARIFY THE MATTER IS CIVIL OR CRIMINAL IN VIEW OF 1ST PARA OF I/ORDER (LETTER DT. 25.01.2025 AT PAGE 281-281A GIVEN) (3)1.2. Deficit Court Fees - More court fee required Rs... RS. 27690/- PAID (RS. 21740/- MORE REQUIRED) (4)Other CAUSE TITLE NOT TALLY WITH I/O. TO BE CHECKED LATER (5)Other M/P OF ORDER DT. 3-1-25 REQUIRED (6)Other 3RD ORDER 3-1-25 DATE/YEAR NOT TALLY AT MANY PLACES - CHECK LATER (7)Other OFFICE REPORT ON LIMITATION NOT PROPER - GREEN O/R/L REQUIRED (8)Other H/C FINDINGS NOT FOUND IN LIST OF DATES (9)Other DESCRIPTION OF APPENDIX NOT FOUND IN INDEX (10)24.2 Non-inclusion of complete listing proforma filled in, signed in the paper-books. JUDGES NAME...H/C NAME...PARA 4 NOT PROPER...SL. NO. 7 NOT GIVEN (11)Other CERTIFICATE NOT PROPER (12)5.3 Non-filing of affidavit properly executed. (13)Other PAGE 144 TO 154 FOUND BLUR (14)Other ANNEXURES NOT FOUND IN CHRONOLOGICAL ORDER (15)Other ANNEX. P10 - CASE NO. NOT TALLY (16)Other H/C DESCRIPTION NOT PROPER IN APPLICATIONS (17)Other VAKALATNAMA STILL PENDING FOR CHECKING ((LETTER DT. 25.01.2025 AT PAGE 281-281A GIVEN) - M/P REQUIRED IN ALL ORDERS (18)Other ALL SLP DOCUMENTS SHOULD BE SIGNED IN PAPERBOOKS ((ALL DEFECTS AFTER RECHECKING NOTIFIED BY CHHATAR SINGH))

Date : 28-01-2025 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE VIKRAM NATH  
HON'BLE MR. JUSTICE SANJAY KAROL  
HON'BLE MR. JUSTICE SANDEEP MEHTA

For Petitioner(s) Mr. Vinay Navare, Sr. Adv.  
Mr. Abhinav Chandrachud, Adv.  
Mrs. Ritu Bharadwaj, Adv.  
Mr. Rajat Gaur, Adv.  
Mr. Yusouf Khan, Adv.  
Mr. Waseem Shaikh, Adv.  
Mr. Nadeem, Adv.

Mr. Sushil Shukla, Adv.  
 Mr. Junaid Khan, Adv.  
 Mr. Santosh Gupta, Adv.  
 Mr. Amol Chitravanshi, AOR

For Respondent(s) Dr. A.M. Singhvi, Sr. Adv.  
 Mr. Mukul Rohatgi, Sr. Adv.  
 Mr. Mahesh Agarwal, Adv.  
 Ms. S. Lakshmi Iyer, Adv.  
 Mr. Devansh Srivastava, Adv.  
 Mr. Arshit Anand, Adv.  
 Mr. Naman Gupta, Adv.  
 Ms. Priyansha Sharma, Adv.  
 Mr. E. C. Agrawala, AOR

Mr. Tushar Mehta, Solicitor General  
 Mr. Amol Nirmalkumar Suryawanshi, AOR  
 Ms. Srishty Pandey, Adv.  
 Ms. S. Soorya Gayathry, Adv.

Mr. Dhruv Mehta, Sr. Adv.  
 Mr. Chirag M. Shroff, AOR  
 Mrs. Mahima C. Shroff, Adv.  
 Mr. Anand Thumbayil, Adv.

Ms. Yugandhara Pawar Jha, Adv.  
 Mr. Siddharth Dharmadhikari, Adv.  
 Mr. Aaditya Aniruddha Pande, AOR  
 Ms. Lavanya Dhawan, Adv.

Mr. Vinay Navare, Sr. Adv.  
 Mr. Rohit Shetty, Adv.  
 Mr. Viraj Kadam, Adv.  
 Mr. Soumya Dutta, AOR  
 Mr. Rahul Kumar, Adv.  
 Mr. Siddhant Upmanyu, Adv.

UPON hearing the counsel the Court made the following  
 O R D E R

1. Application(s) for permission to file Special Leave Petition(s) is/are granted.
2. 230 petitioners have joined in to file this Special Leave Petition assailing the correctness of the judgment and order dated 23.02.2024 passed in Writ Petition

No.1048 of 2024, inter se between Abdul Aziz and others vs. Apex Grievance Redressal Committee and others and other connected matters and also aggrieved by the order of 03.01.2025 passed by the Division Bench of the Bombay High Court declining to grant urgent listing of a pending matter in Writ Petition (L) No.31690/2024.

3. At the outset, it may be clarified that none of the petitioners in the present SLP were parties to the Writ Petition No.1048/2024. However, as they feel aggrieved by the findings given in the said judgment they have challenged the same. In so far as other Writ Petition (L) No.31690/2024 is concerned, only the first 23 petitioners to the present petition were parties and the remaining petitioners No.24 to 230 were not parties in this petition also before the Bombay High Court. The Writ Petition (L) No.31690/2024 is still pending consideration before the Bombay High Court.

4. In the Writ Petition No.1048/2024 the challenge was to the order dated 9th January, 2024 passed by the Apex Grievance Redressal Committee and also the order dated 18th July 2023 passed by the Tahsildar of the Slum Regulatory Authority and to declare them as illegal, null and void.

5. One of the issues raised before the High Court in Writ Petition No.1048/2024 was whether the petitioners therein were entitled to rehabilitation under the Regulation 33(10) of the Development Control and Promotion

Regulations for Greater Mumbai, 1991 treating them to be slum dwellers under the Maharashtra Slums Area (Improvement, Clearance and Redevelopment) Act, 1971 or that they were entitled to be rehabilitated being treated as tenants/occupants of Maharashtra Housing and Area Development Authority (MHADA) constituted under Maharashtra Housing and Area Development Act, 1976 under Regulation 33(5) of the DCPR, 1991. The High Court had dismissed the said Writ Petition vide judgment dated 23.02.2024, as noted above treating the dwellers to be covered under Regulation 33(10) of the DCPR, 1991.

6. Later on the first 23 petitioners in the present petition before this Court filed Writ Petition (L) No.31690/2024 some time in October, 2024 challenging the notice dated 26th September, 2024 issued by the respondent no.1 therein i.e. Tahsildar- 1, Special Cell, Slum Rehabilitation Authority purportedly issued under Sections 33 and 38 of the Act, 1971 and other ancillary reliefs. The claim before the High Court by these 23 petitioners was that they were entitled to be rehabilitated under Regulation 33(5) of the DCPR, 1991 and that the Regulation 33(10) of the DCPR, 1991 had no applicability in their case. As they were being likely to be evicted they moved a praecipe dated 03.01.2025 for early listing of the matter i.e. Writ Petition (L) No.31690/2024 but the Division Bench directed the circulation only for 18th March, 2024.

7. Aggrieved by the refusal to grant urgent listing and directing the matter to be listed after about two and half months, the present SLP was preferred. However, interestingly instead of the 23 petitioners who were parties to the Writ Petition (L) No.31690/2024, before this Court 207 additional dwellers joined in as petitioners (Sl.No.24 to 230) who were not parties before the High Court. Simultaneously, they also challenged the order dated 23.02.2024 passed in Writ Petition No.1048/2024 as, according to them, it adversely affected their rights.

8. At the time of initial arguments, it was submitted by the counsel for petitioners that challenging the order dated 23.02.2024 already two Civil Appeals are pending bearing Civil Appeal Nos.8305-8306/2024 @ SLP(C) Nos.10740-10741/2024 and that an interim order is already granted in those cases. Accordingly, by order dated 09.01.2025, this Court issued notice, directed for tagging of the matter with the pending two Civil Appeals and further granting an order of status quo as it existed then to be maintained by the parties.

9. On the very next date i.e.10.01.2025, a mention was made on behalf of the respondents that the petitioners had obtained the interim order on the basis of concealment of material facts and by misrepresentation. Upon being mentioned, the matter was directed to be listed on 20.01.2025. It was further provided that the

stay vacation application may also be listed on the said date. Thereafter the matter was adjourned on 20.01.2025 for 21.01.2025 and again on 21.01.2025 it was adjourned to 28.01.2025.

10. We have heard learned counsel for the petitioners as also the learned senior advocates appearing for the respondents. It has been vehemently argued by the respondents that the present petition deserves to be dismissed with costs on many counts of maintainability, concealment of facts and misrepresentation.

11. On the other hand, the petitioners submitted that all the respondents are acting in collusion and the petitioners belonging to the extreme economically weaker section being occupants/tenants of MHADA are being further oppressed and harassed by the respondents. They want to dispossess the petitioners from the frugal and minimal shelter that they have along with their family members and belongings without complying with the statutory provisions of rehabilitation according to Regulation 33(5) of the DCPR, 1991.

12. Having considered the submissions, we are of the firm view that this Court need not go into the merits of the matter in the present case as the Writ Petition filed by the first 23 petitioners being Writ Petition (L) No.31690/2024 is still pending before the Bombay High Court for its consideration. We have also been informed that in the meantime more writ petitions have been filed

on similar grounds before the High Court.

13. There is no dispute inter se parties that all those verified as slum dwellers and who are in occupation over the land in question and those verified as tenants/occupants of MHADA and are eligible for being rehabilitated will have to be suitably compensated and rehabilitated as per the DCPR, 1991, the Act and the Rules as are applicable. The only issue is as to whether they are entitled to rehabilitation under Regulation 33(10) or 33(5) of the DCPR, 1991? The major difference providing the rehabilitation under the aforesaid two Regulations is that under the DCPR 33(10) the entitlement of constructed structure is less as compared to what is provided under Regulation 33(5) of DCPR, 1991. Carpet area of the constructed structure to be provided is substantially more under Regulation 33(5) as compared to 33(10) of DCPR, 1991.

14. The issue before the pending writ petition in the High Court or pending writs if there are more than one, is about the applicability of Regulation 33(5) or 33(10) of DCPR, 1991.

15. Mr. Tushar Mehta, learned Solicitor General appearing for the Slum Regulatory Authority stated that the developer has already deposited a substantial amount which is to be paid to the eligible dwellers for purposes of paying rent for the intervening period before the constructed structure is provided and as soon as the

dwellers vacate the premises, they would be entitled to receive the rent which the authority will forthwith release. He further submits that the entitlement of constructed structure under Regulation 33(5) or 33(10) of DCPR, 1991 is to be adjudicated in the pending writ petitions before the Bombay High Court.

16. On behalf of the developer Dr. Abhishek Manu Singhvi, learned senior counsel has made similar submissions. Even Mr. Dhruv Mehta, learned senior counsel appearing for MHADA stated that the entitlement would be decided by the High Court in the pending writ petition. Other learned senior counsel appearing for other parties have also made similar submissions.

17. In our considered opinion, there is no purpose of keeping this petition pending before this Court. The eligible dwellers, in any case, are entitled to constructed structure as per Regulation 33(10) of DCPR, 1991 and they may accept the same for the time being and if ultimately they are found to be entitled to be treated as tenants/occupants of MHADA and being entitled to the benefit of constructed structure under Regulation 33(5) of DCPR, 1991, the developer shall provide the same and the respective authorities involved, in particular the Slum Regulatory Authority and MHADA will ensure that the entitlement is fully provided to the deserving eligible dwellers as per the final judgment of the High Court.

18. We, accordingly, dispose of this petition. The High Court will proceed to decide the pending writ petitions on their own merits completely uninfluenced by any of the observations made in this order.

19. The interim order dated 09.01.2025 stands vacated.

20. Pending application(s), if any, shall stand disposed of.

(SAPNA BISHT)  
COURT MASTER (SH)

(RANJANA SHAILEY)  
COURT MASTER (NSH)