

Abdul Aziz Abdul Rahim Patel vs State Of Maharashtra Thru Government ... on 7 October, 2026

CNR No : HCBM020203212026
WP(L)-29228-2026-Judgment.doc

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

WRIT PETITION (LODGING) NO. 29228 OF 2026
WRIT PETITION (LODGING) NO. 20321 OF 2026
WRIT PETITION (LODGING) NO. 28204 OF 2026
WRIT PETITION (LODGING) NO. 29235 OF 2026
WRIT PETITION (LODGING) NO. 29237 OF 2026
WRIT PETITION (LODGING) NO. 29239 OF 2026
WRIT PETITION (LODGING) NO. 29248 OF 2026
WRIT PETITION (LODGING) NO. 29263 OF 2026
WRIT PETITION (LODGING) NO. 29270 OF 2026
WRIT PETITION (LODGING) NO. 29274 OF 2026
WRIT PETITION (LODGING) NO. 29275 OF 2026
WRIT PETITION (LODGING) NO. 29279 OF 2026
WRIT PETITION (LODGING) NO. 29286 OF 2026
WRIT PETITION (LODGING) NO. 29290 OF 2026
WRIT PETITION (LODGING) NO. 29294 OF 2026
WRIT PETITION (LODGING) NO. 29295 OF 2026
WRIT PETITION (LODGING) NO. 29327 OF 2026
WRIT PETITION (LODGING) NO. 29478 OF 2026
WRIT PETITION (LODGING) NO. 29744 OF 2026

1. Javed Abdul Rashid Ansari,
R/o. Issa Building, Madanpura,
Mumbai - 400 008. ...PETITIONER
1. Abdul Aziz Abdul Rahim Patel
2. Ansari Muhammed Akhtar Abdus Shakoor
3. Mohamed Hasan Mohamed Husein Ansari ...PETITIONERS
4. Anwar Ahmed Tauseef Ahmed Ansari

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5. Sharique Ahmed Ansari
6. Abdul Aziz Abdul Rashid Ansari
7. Javed Abdul Rashid Ansari
8. Shahid Mustafa Gulam Mustafa Khan
9. Rabia Mohammed Hussain Mulla
10. Abrar Ahmed Mohammed Hussain Mulla
11. Abdul Rashid Mohd. Hasan
12. Ansari Ajaz Ahmed Nazir Ahmed
13. Zahid Mohammed Qasim Ansari
14. Aftab Banu Mohamed Rizwan Shaikh
15. Zulekha Bi Azizul Haq
16. Mohammed Mohsin Ansari
17. Anwarul Haque Mohamed Ibrahim
18. Riyaz Ahmed Ansari
19. Gulam Mohamed Yasin Ansari
20. Mohamed Altaf Ataullah Ansari
21. Ansari Abu Hamza Rasool Ahmed
22. Gafoor Ahmed Bashir Ahmed
23. Ansari Vasim Moinul Abedin
24. Dr. Farooque Ahmed Zahoor Ahmed
Ansari
25. Shamsul-Haque-Abdul Gafoor Mozawala
All are residents of Issa Building,
Madanpura,
Mumbai - 400 008.

1. Abdul Aziz Abdul Rahim Patel,
R/o. Issa Building, Madanpura,
Mumbai - 400 008. ...PETITIONER
1. Abdul Aziz Abdul Rashid Ansari,
R/o. Issa Building, Madanpura,
Mumbai - 400 008. ...PETITIONER

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1. Ansari Ajaz Ahmed Nazir Ahmed,
R/o. Issa Building, Madanpura,
Mumbai – 400 008. ...PETITIONER
1. Anwar Ahmed Tauseef Ahmed Ansari,
R/o. Issa Building, Madanpura,
Mumbai – 400 008. ...PETITIONER
1. Riyaz Ahmed Ansari,
R/o. Issa Building, Madanpura,
Mumbai – 400 008. ...PETITIONER
1. Zahid Mohammed Qasim Ansari,
R/o. Issa Building, Madanpura,
Mumbai – 400 008. ...PETITIONER
1. Gulam Mohamed Yasin Ansari,
R/o. Issa Building, Madanpura,
Mumbai – 400 008. ...PETITIONER
1. Abdul Rashid Mohd. Hasan,
R/o. Issa Building, Madanpura,
Mumbai – 400 008. ...PETITIONER
1. Shahid Mustafa Gulam Mustafa Khan,
R/o. Issa Building, Madanpura,
Mumbai – 400 008. ...PETITIONER

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1. Sharique Ahmed Ansari,
R/o. Issa Building, Madanpura,
Mumbai – 400 008. ...PETITIONER
1. Ansari Abu Hamza Rasool Ahmed,
R/o. Issa Building, Madanpura,
Mumbai – 400 008. ...PETITIONER
1. Mohamed Hasan Mohamed Husein
Ansari,
R/o. Issa Building, Madanpura,
Mumbai – 400 008. ...PETITIONER
1. Mohamed Altaf Ataullah Ansari,
R/o. Issa Building, Madanpura,
Mumbai – 400 008. ...PETITIONER
1. Aftab Banu Mohamed Rizwan Shaikh,
R/o. Issa Building, Madanpura,
Mumbai – 400 008. ...PETITIONER

1. Abrar Ahmed Mohammed Hussain Mulla
2. Rabia Mohammed Hussain Mulla
Both are residents of Issa Building,
Madanpura,
Mumbai - 400 008.

...PETITIONERS

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1. Ansari Muhammed Akhtar Abdus Shakoor Ansari,
2. Ansari Fatima Muhammed Akhtar
Both are residents of Issa Building,
Madanpura, Mumbai - 400 008.

...PETITIONERS

1. Zulekha Bi Azizul Haq,
R/o. Issa Building, Madanpura,
Mumbai - 400 008.

...PETITIONER

~ versus ~

1. State of Maharashtra,
Through the Government Pleader
2. Maharashtra Housing & Area
Development Authority, Mumbai.
3. The Maharashtra Building Repair &
Reconstruction, Mumbai.
4. Deputy Chief Engineer (Zone-III),
The Maharashtra Building Report &
Reconstruction Board, Mumbai.
5. The Executive Engineer ("E-2"
Division),
Mumbai Building Repairs and
Reconstruction Board, Mumbai
6. The Municipal Corporation of Greater
Mumbai
7. Mr. Pudinaawala Mohammed Rafique
8. Mr. Zainul Abedien Pudinaawala

...RESPONDENTS

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A PPEARANCES

For the Petitioner :

Mr. Amrut Joshi with Amol Joshi, Aarti Nimbalkar & Radhika Kulkarni i/b Sufiyan Shaikh, for the Petitioner (s) in all the Writ Petitions.

For the Respondents :

Mr. J. G. Aradwad (Reddy), for the Respondent Nos. 2 to 4 in WP(L)/20321/2026 and for the Respondent Nos. 2 to 5 in WP(L)/28204/2026.

Dr. Milind Sathe, Advocate General, with Mr. Jaya Bagwe, for the Respondent-MHADA in all the Writ Petitions.

Mr. Arvind T. Rathod i/b Komal Punjabi, for the Respondent-BMC in all the Writ Petitions.

Ms. Nazia Shaikh, AGP, for the WP(L)/20321/2026, WP(L)/29228/2026.

Respondent-State in

Mr. Rakesh Pathak, AGP, for the WP(L)/28204/2026, WP(L)/29235/2026.

Respondent-State in

Mr. Shamrao Gore, AGP, for the Respondent-State in
WP(L)/29237/2026.
Ms. Jyoti Chavan, Addl. G. P., for the Respondent-State in
WP(L)/29239/2026.
Mr. Himanshu Takke, AGP, for the Respondent-State in
WP(L)/29248/2026.
Mr. Yugandhara Khanwilkar, AGP, for the Respondent-State in
WP(L)/29263/2026.
Mr. Manish Upadhye, AGP, for the Respondent-State in
WP(L)/29270/2026.
Ms. Fatima Lakdawala, AGP, for the Respondent-State in
WP(L)/29274/2026.
Ms. Gauri Sawant, AGP, for the Respondent-State in
WP(L)/29275/2026.
Ms. Varsha Sawant, AGP, for the Respondent-State in
WP(L)/29279/2026.

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Ms. Vrushali Kabre, AGP, for the Respondent-State in
WP(L)/29286/2026.
Mr. Akshay Patkar, AGP, for the Respondent-State in
WP(L)/29290/2026.
Mr. Vikrant Parshurami, AGP, for the Respondent-State in
WP(L)/29294/2026.
Ms. Usha Rahi, AGP, for the Respondent-State in
WP(L)/29295/2026.
Mr. Dipesh Siroya, AGP, for the Respondent-State in
WP(L)/29327/2026.
Mr. Milind More, Addl. GP, for the Respondent-State in
WP(L)/29478/2026.
Ms. Sheetal Malvankar, AGP, for the Respondent-State in
WP(L)/29744/2026.
Mr. Karl Tamboly, Mr. Shoaib I. Memon with Mr. Ibrahim S.
Memon, for the Nos. 6 & 7 in WPL/20321/2026 and for
Respondent Nos. 7 & 8 in WP(L)/28204/2026,
WP(L)/29228/2026, WP(L)/29235/2026, WP(L)/29237/2026,
WP(L)/29239/2026, WP(L)/29248/2026, WP(L)/29263/2026,
WP(L)/29270/2026, WP(L)/29274/2026, WP(L)/29275/2026,
WP(L)/29279/2026, WP(L)/29286/2026, WP(L)/29290/2026,
WP(L)/29294/2026 and WP(L)/29295/2026.

CORAM : SUMAN SHYAM &
GAUTAM A. ANKHAD, JJ

RESERVED ON : 17th SEPTEMBER 2026.

PRONOUNCED ON : 07th OCTOBER 2026.

JUDGMENT (Per Gautam Ankhad, J.):

1. Rule. Rule is made returnable forthwith and the Writ Petitions are heard finally with the consent of the parties. Page 7 of 32

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2. Respondent Nos.7 and 8 are the landlords/owners and have undertaken redevelopment of 'Issa Building' standing on Plot bearing C.S. No.1/1742 of Byculla Division, Mumbai - 400 008 pursuant to the permissions granted by the statutory authorities under Regulation 33(7) of the Development Control Regulations, 2034. The building comprises of ground floor and three upper floors, and has 20 non-residential and 63 residential units. As on date, approximately 57 tenants out of total of 83 tenants, have surrendered possession of their premises and executed Permanent Alternate Accommodation Agreements ("PAAA") with Respondent Nos.7 and 8. The Petitioners are a minority group of tenants/occupants, who have challenged the proceedings that have been initiated under [Section 95A](#) of the Maharashtra Housing and Area Development Act, 1976 ("Act") against them. Since all these Petitions raise a common challenge and involve identical facts, they are being disposed of by this common judgment. For convenience, the parties are referred to as arrayed in Writ Petition (L) No.29228 of 2026 ([Javed Abdul Rashid Ansari vs. State of Maharashtra](#)).

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3. Mr. Joshi, learned counsel appearing for the Petitioners, submits that the Petitioners are not opposed to the redevelopment of the building as such. Their grievance is that Respondent Nos.7 and 8 have not complied with the mandatory conditions imposed under the No Objection Certificate ("NOC") issued by Respondent No.2-Maharashtra Housing and Area Development Authority ("MHADA/Authority"), particularly Condition Nos.22, 24, 26 and 27, prior to commencement of demolition of the existing structure. This includes non-execution of the PAAAs, failure to provide important particulars in the PAAA, failure to provide the area entitlement of 425 sq.ft. contemplated under the DCPR and failure to provide corpus fund as also the 10% rehabilitation component construction cost by way of bank guarantee/fixed deposit. According to the Petitioners, until the above conditions of the NOC are fulfilled, the question of vacating the units by them would not arise. Hence, it is contended that the Respondent No.5's action in issuing the impugned eviction notices dated 12 th August, 2026 under [Section 95A](#) of the Act is premature, illegal and unwarranted.

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4. An additional legal challenge is raised by the Petitioners on the ground that the impugned notices of eviction are without jurisdiction. Mr. Joshi submits that, on a conjoint reading of [Sections 2\(3\), 2\(6\), 3, 16\(1\)\(e\), 25, 26, 27, 95A](#) and [181](#) of the Act, the power to issue the impugned notices under [Section 95A](#) vests only in Respondent No.3-Board. Such power cannot be exercised by Respondent No.5-Executive Engineer. According to Mr. Joshi, while [Section 181](#) of the Act contains a provision enabling delegation of statutory powers, the power of delegation is conferred only upon Respondent No.2-Authority and not upon Respondent No.3-Board. He submits that there is no provision by which the Respondent No.3 can delegate or sub-delegate its powers to Respondent No.5 or to any other person. The power under [Section 95A](#) of evicting occupiers must be interpreted strictly and can be exercised by Respondent No.3 alone. It is, therefore, contended that the reference to the term "authorities" in [Section 16\(1\)](#) must be understood with reference to the statutory "Authority" constituted under the Act, i.e., Respondent No.2-MHADA. [Section 16](#) merely enumerates the authorities entrusted with implementation of the Act and does not authorize the delegation of statutory functions. According to the learned counsel, Page 10 of 32 7th October 2026 Uploaded on - 13/07/2026 Downloaded on - 14/10/2026 21:30:51 WP(L)-29228-2026-Judgment.doc Respondent No.2 and its Chief Officer are distinct statutory entities and cannot be treated as interchangeable functionaries while exercising a power specifically conferred by the Act.

5. Reliance is placed upon the judgments in Jugraj Tejraj and Sons and Anr. v/s. Executive Engineer, E-1 Division, MBR and R Board and Ors.1, Javed Abdul Rahim Attar and Ors. v/s. MHADA2 and Sahni Silk Mills Pvt Ltd v/s. Employees State Insurance Corporation3 in support of the above submissions. It is submitted that where a statute confers power on a specified authority to delegate its functions, the delegatee cannot further sub-delegate those powers unless the parent statute expressly authorizes such delegation. Hence, the Petitions ought to be allowed. The Respondents cannot be permitted to use the coercive machinery of [Section 95A](#) to dispossess the Petitioners.

6. On the other hand, Dr. Sathe, the learned Advocate General appearing for Respondent Nos.2 to 5, submits that the challenge raised by the Petitioners proceeds on an incorrect understanding of 1 2021 SCC OnLine Bom 3392 2 2025 SCC OnLine Bom 2759 3 (1994) 5 SCC 346 Page 11 of 32 7th October 2026 Uploaded on - 13/07/2026 Downloaded on - 14/10/2026 21:30:51 WP(L)-29228-2026-Judgment.doc the statutory scheme under the Act. He has argued that [Section 95A](#) was introduced by [Maharashtra Act](#) No.16 of 1998 with the object of facilitating redevelopment by providing a mechanism for summary eviction of occupants in specified circumstances, particularly where non-cooperation by individual tenants or occupants obstructed or delayed a redevelopment project. The provision is intended to ensure that the redevelopment is not stalled by some occupants who refuse to vacate the premises on some pretext or the other.

7. Dr. Sathe contends that under the Act, orders under [Section 95A](#) are passed only after following the prescribed procedure and after affording the concerned occupants an opportunity of being heard. In the present case also, show cause notices were issued, the concerned occupants as well as the Developer/NOC holder were heard, and orders were thereafter passed under [Section 95A](#).

8. Dr. Sathe submits that Respondent No.5 is competent to initiate and conduct proceedings under [Section 95A](#) as is evident from a conjoint reading of [Sections 2\(6\), 16\(1\)\(e\)](#) and [18](#) of the Act. The power under [Section 95A](#) is vested in Respondent No.3- Page 12 of 32 7th October 2026 Uploaded on - 13/07/2026 Downloaded on - 14/10/2026 21:30:51 WP(L)-29228-2026-Judgment.doc Board, which acts through its Chief Officer and, therefore, the Chief Officer is competent/authorized to entrust the initiation of eviction proceedings to Respondent No.5. According to Dr. Sathe, no delegation of authority is required as the Chief Officer is performing the executive function of Respondent No.3 as prescribed under the Act. Under [Section 16\(1\)\(e\)](#) read with [Section 95A\(2\)](#), the Chief Officer is empowered to authorize Respondent No.5 to discharge functions under [Section 95A](#). On 14th September, 20224, Respondent No.3 issued an administrative order directing that all actions under [Section 95A](#) are required to be executed by Respondent No.5. In the instant case, after considering the necessary record, by an order dated 1 st July, 20265, the Chief Officer of Respondent No.3 directed and empowered Respondent No.5 to initiate action under [Section 95A](#) against the unauthorized occupants.

9. It is the further contention of Respondent Nos.2 to 5 that the analogy of Section 79A is inapplicable as the Competent Authority 4 Annexed at page 292 of reply affidavit dated 7th September 2026 filed by Respondent No.2 to 5.

5

Annexed at page 294 of reply affidavit dated 7th September 2026 filed by Respondent No.2 to 5.

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or "Civil Judge" under [Section 2\(11\)](#) read with [Section 65](#) of the Act. Hence, the impugned notices cannot be said to be without jurisdiction. Reliance is placed upon the decisions of this Court in Rashida Hussain Kathawala v. Executive Engineer & Ors.6, Sayed Anwar Gafoor v/s. Administrator and Divisional Commissioner 7 and Radhika George v/s. MHADA8 in support of the above submissions.

10. Insofar as the grievance of the Petitioners regarding non-compliance with the NOC conditions by Respondent Nos.7 and 8 is concerned, Dr. Sathe relies upon paragraphs 16 to 18 of the affidavit dated 7th September, 2026 and paragraph 2 of the affidavit dated 10th September, 2026 filed by Respondent Nos.2 to 5. It is contended that the conditions imposed under the redevelopment scheme operate at different stages and include conditions precedent and conditions subsequent. Reliance is placed 6 (2019) SCC OnLine Bom 983 7 (2010) SCC OnLine Bom 225 8 (2012) 5 Mh.L.J. 229 Page 14 of 32 7th October 2026 Uploaded on - 13/07/2026 Downloaded on - 14/10/2026 21:30:51 WP(L)-29228-2026-Judgment.doc on the above affidavits to submit that some of the conditions relied upon by the Petitioners are not yet due for compliance and, therefore, their non-fulfillment at this stage cannot constitute a violation of the NOC.

11. To sum up his arguments, Dr. Sathe has submitted that Respondent Nos.2 to 5 shall ensure compliance with and enforcement of all the conditions contained in the NOC. In the event of any established non-compliance, the competent authority would take appropriate action, including revocation of the NOC, in accordance with the procedure prescribed by law. On these grounds, it is submitted that no interference is warranted in the present Petitions.

12. Mr. Tamboly, learned counsel appearing for Respondent Nos.7 and 8, submits that the building has been declared dilapidated and poses a continuing risk to life. There are 83 tenants/occupants, who have executed irrevocable consents for redevelopment. Respondent Nos.7 and 8 have obtained the statutory permissions, invested monies and begun the redevelopment under [Regulation 33\(7\)](#) of the DCPR 2034. Having Page 15 of 32 7th October 2026 Uploaded on - 13/07/2026 Downloaded on - 14/10/2026 21:30:51 WP(L)-29228-2026-Judgment.doc granted the consents, the Petitioners cannot be permitted to resile from the same.

13. He has further submitted that the Respondent Nos.7 and 8 have complied with the NOC conditions which are presently applicable and are ready and willing to provide the Petitioners with transit rent and corpus fund and to register their PAAAs on the same terms and conditions as are applicable to the other tenants. As on date, 57 tenants have voluntarily surrendered possession of their premises. 16 tenants (including some of the Petitioners) were evicted pursuant to orders passed under [Section 95A](#) of the MHADA Act and only 10 tenants/occupants are presently occupying the dilapidated building and obstructing the redevelopment. The continued obstruction by the Petitioners is delaying the redevelopment project, prejudicially affecting the other tenants who have already vacated the premises. The

learned counsel relies upon the judgment of this Court in Vasant Kheraj Bhanushali and Ors. v/s. Goregaon Siddharth Nagar Sahakari Grih Nirman Sanstha Ltd.9 and submits that proceedings under [Section 9](#) 2011(3) Mh.L.J. 433 Page 16 of 32 7th October 2026 Uploaded on - 13/07/2026 Downloaded on - 14/10/2026 21:30:51 WP(L)-29228-2026-Judgment.doc 95A have been validly initiated and that the Petitions deserve to be dismissed with costs.

Issue in these Petitions:

14. The main issue which arises for consideration is whether the proceedings initiated by Respondent No.5-Executive Engineer under [Section 95A](#) of the Act are without jurisdiction and contrary to the scheme of the Act. The additional issue is pertaining to the question as to whether the alleged non-compliance with certain NOC conditions by Respondent Nos.7 and 8 renders the [Section 95A](#) proceedings premature and illegal, warranting interference by this Court.

Reasons and Conclusions:

Purpose of [Section 95A](#):

15. [Section 95A](#) was inserted into the Act by way of an amendment vide the [Maharashtra Act](#) No.16 of 1998. It is introduced as a special provision for dealing with summary eviction of occupiers in specified redevelopment situations. The Statement of Objects and Reasons of the 1998 Amendment Act, Page 17 of 32 7th October 2026 Uploaded on - 13/07/2026 Downloaded on - 14/10/2026 21:30:51 WP(L)-29228-2026-Judgment.doc inter alia, records that the amendment was necessary to protect the interests of occupiers of more than 18,000 dilapidated and cessed buildings. The provision reads as follows:

"95A. Summary eviction of occupiers in certain cases-

(1) Where the owner of a building or the members of the proposed co-

operative housing society of the occupiers of the said building, submits a proposal to the Board for reconstruction of the building, after obtaining the written consent of [not less than 51 per cent] 10, of the total occupiers of that building and a No Objection Certificate for such reconstruction of the building is issued by the Board, to the owner or to the proposed co-operative housing society of the occupiers, as the case may be, then it shall be binding on all the occupiers to vacate the premises:

Provided that, it shall be incumbent upon the holder of such No Objection Certificate to make available to all the occupants of such building alternate temporary accommodation or to pay rent in lieu thereof.

(2) On refusal by any of the occupant to vacate the premises as provided in sub-section (1), on being approached by the holder of such No Objection Certificate for eviction of such occupiers, it would be competent for the Board, notwithstanding anything contained in Chapters VI and VII of this Act, to effect summary eviction of such occupiers.

(3) Any person occupying any premises, land, building or structure of the Board unauthorisedly or without specific written permission of the Board in this behalf shall, notwithstanding anything contained in Chapters VI and VII of this Act, be liable for summary eviction or be shifted in Board Transit Camp wherever available. (4) Any person who refuses to vacate such premises or obstructs such eviction shall, on conviction, be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five thousand rupees, or with both."

16. The purpose of [Section 95A](#) is apparent. It creates a special mechanism to deal with the non-cooperating members and to 10 Substituted for the words and figures "not less than 70 per cent" - By Mah.Act No.48 of 2022 dated 2-12-2022, s.5(1)(a), (w.e.f. 2-12-2022). Page 18 of 32

7th October 2026 Uploaded on - 13/07/2026 Downloaded on - 14/10/2026 21:30:51 WP(L)-29228-2026-Judgment.doc enable speedy implementation of a redevelopment scheme. [Section 95A](#) is a summary procedure and is not intended to become a substitute for a civil trial concerning every disputed aspect of the redevelopment. The requirement of fairness is satisfied when the affected occupants are given notice of the proposed action and a meaningful opportunity to place their case before the competent authority, which has been done in the present case.

17. A Co-ordinate Bench of this Court while dealing with a challenge to [Section 95A](#) in Radhika George (Supra) has held that the Executive Engineer is not a judicial officer and proceedings under [Section 95A](#) cannot be converted into full-fledged judicial proceedings. The provision is not intended to provide a forum to adjudicate the dispute inter se between the Society, members and the developers. The Court further held that the Executive Engineer under [Section 95A](#) is not expected to arrogate to himself, the jurisdiction vested in the Civil Court and Co-operative Court and decide issues raised by the appellants in those proceedings. Once the jurisdictional facts before the Executive Engineer were satisfied and there was no restraint order, the authority under [Section 95A](#) had no other option, but would be under an obligation to direct Page 19 of 32 7th October 2026 Uploaded on - 13/07/2026 Downloaded on - 14/10/2026 21:30:51 WP(L)-29228-2026-Judgment.doc the appellants to move to the transit accommodation to facilitate the redevelopment.

18. The jurisdictional challenge by the Petitioners proceeds on the premise that Respondent No.5 has no power to initiate the impugned action under [Section 95A](#) and the expression "Board" occurring in [Section 95A](#) necessarily requires every step contemplated under that provision to be exclusively undertaken by the Board for the under-mentioned reasons. We are unable to agree with such assertion.

[Scheme of the MHADA Act:](#)

19. [Section 2\(3\)](#) defines the expression "Authority" to mean the Maharashtra Housing and Area Development Authority established under [Section 3](#) of the Act. [Section 2\(6\)](#) defines "Board" to mean a Board established under [Section 18](#). [Section 16](#) identifies the authorities charged with the execution and carrying out of the provisions of the Act. Significantly, [Section 16\(1\)](#) does not confine the expression "authorities" to Respondent No.2-Authority or the Boards alone. It expressly includes the Chairman and part-time Vice-Chairman of the Boards and, in cases where the Boards have a Page 20 of 32 7th October 2026 Uploaded on - 13/07/2026 Downloaded on - 14/10/2026 21:30:51 WP(L)-29228-2026-Judgment.doc part-time Chairman/Vice-Chairman, the Chief Officers of such Boards. [Section 16\(2\)](#) then places every Board under the superintendence, direction and control of Respondent No.2- Authority. [Section 18](#) of the Act provides for the establishment of regional Boards in various cities and districts in Maharashtra. [Section 18\(2\)](#) provides that the Board shall consist of a Chairman and not more than 17 other members including a Vice-Chairman. [Section 18\(6\)](#) provides that where the Chairman is a part-time Chairman, the Vice-Chairman, if full-time, shall be the Chief Officer of the Board. If the Vice-Chairman is also part-time, the State Government is required to appoint a Chief Officer of the Board, who is expressly described as an officer of the Board. [Section 18\(9\)](#) provides that the Board shall be provided with such employees as Respondent No.2 may determine and the Board shall, within its jurisdiction, be responsible for administering and managing the affairs of Respondent No.2 for the purposes of the Act. These provisions indicate that the legislature has created an administrative and functional hierarchy comprising of the Authority, the Boards and the officers, through whom, the Board is to discharge its statutory functions.

20. Thus, as noticed above, [Section 16\(1\)](#) expressly identifies the Chief Officers of the concerned Boards as authorities charged with carrying out the provisions of the Act. The Chief Officer is not an outsider or an officer of an unrelated statutory body. [Section 18](#) itself recognises the Chief Officer as an officer of the Board. Therefore, the Chief Officer is an integral part of the administrative machinery through which, the Board performs its functions.

21. The Scheme of the Act also makes it clear that the provisions relating to Meetings of the Board under [Sections 25 to 27](#) cannot be read in isolation. Those provisions regulate the manner in which the Board deliberates and takes decisions as a statutory body. They do not stipulate that each ministerial, administrative or executive act necessary to give effect to the Board's statutory functions must itself be preceded by a fresh resolution of the Board. To accept the Petitioners' argument would mean that even routine implementation of decisions and statutory functions would require the Board, as a collective body, to convene and undertake each individual administrative step by adopting specific resolution. Such an interpretation would be inconsistent with the provisions of the Act providing for elaborate administrative machinery, created Page 22 of 32 7th October 2026 Uploaded on - 13/07/2026 Downloaded on - 14/10/2026 21:30:51 WP(L)-29228-2026-Judgment.doc by [Sections 16](#) and [18](#) and would render the role specifically assigned to the Chief Officers as wholly otiose and nugatory.

22. The record also shows that the Respondent No.3 had, by an administrative order dated 14th September, 2022, directed that actions under [Section 95A](#) are to be executed by Respondent No.5. In the present case, the Chief Officer of Respondent No.3, by order dated 1st July, 2026, specifically directed and empowered Respondent No.5 to initiate action under [Section 95A](#) against the concerned occupants. The exercise of power by Respondent No.5 is therefore not an unilateral or suo moto assumption of jurisdiction by an officer but was duly authorized by the Competent Authority. Significantly, there is no challenge to the said administrative orders.

23. Mr. Joshi's reliance on [Section 181](#) of the Act to assail the jurisdiction of Respondent No.5 is equally misplaced. [Section 181\(1\)](#) empowers Respondent No.2-Authority, by general or special order, to delegate powers exercisable by it or functions or duties to be discharged by it to its officers, Boards or officers of the Boards. Sub-section (2) specifically contemplates delegation by Respondent Page 23 of 32 7th October 2026 Uploaded on - 13/07/2026 Downloaded on - 14/10/2026 21:30:51 WP(L)-29228-2026-Judgment.doc No.2 of any power exercisable by a Board under the Act to an officer of the Board. Sub-section (3) provides for delegation pursuant to a direction issued by the State Government. In our view, [Section 181](#) has no application since it deals with the delegation of powers of Respondent No.2. There is no delegation of powers of Respondent No.2 in this case. [Section 181](#) does not obliterate the administrative structure created by [Sections 16](#) and [18](#), nor does it require every function performed by a Chief Officer or another officer of the Board to be treated as a fresh delegation of the Board's substantive power. Under the Statute, there is no fetter on the Board to regulate its internal working and entrust Respondent No.5-Executive Engineer with duties to carry out the functions as per the Act. In Sayed Anwar (Supra) a Co-ordinate Bench of this Court had rejected a similar argument that officers of MHADA had not been delegated with the powers to issue eviction orders and the same could only be issued by MHADA, while dealing with redevelopment on MHADA land under the [Maharashtra Slum Areas \(Improvement, Clearance and Redevelopment\) Act, 1971](#). This Court held that such argument was hyper-technical and untenable. Having regard to [Sections 16, 18, 29](#) and [181](#) of the MHADA Act, the Court recognised that the Page 24 of 32 7th October 2026 Uploaded on - 13/07/2026 Downloaded on - 14/10/2026 21:30:51 WP(L)-29228-2026-Judgment.doc statutory scheme permits the Authority's powers, functions and duties to be exercised through the Boards and their authorised officers. The Court rejected the contention that the proceedings were illegal merely because they were initiated or the order was passed by an officer of MHADA rather than by the Board of MHADA itself.

24. The decision in Sahni Silk Mills (Supra) does not advance the Petitioners' case. The issue therein pertained to the power of the Regional Directors of the Employee State Insurance Corporation to issue notices under [Section 85-B](#) of the Employees State Insurance Act, 1948. The Hon'ble Supreme Court has held that the Director General could not authorize any other officer to exercise such power and such notices could not be issued in the absence of enabling provisions under [Section 94A](#). Such is not the case here as the powers under [Section 95A](#) are conferred upon Respondent No.3 under [Sections 16](#) and [18](#) of the Act, and the Board functions through its Chief Officer. The maxim of delegatus non potest delegare lays down that a discretion conferred by statute is intended to be exercised by the authority on which the statute has conferred it and by no other authority, but this Page 25 of 32 7th October 2026 Uploaded on - 13/07/2026 Downloaded on - 14/10/2026 21:30:51 WP(L)-29228-2026-Judgment.doc intention may be negated by any contrary indications found in the language, scope or object of the statute. This proposition is well-settled. In this case, as has been noted above, Respondent No.5-Executive Engineer has acted on the basis of express authority given to him by the Board and its Chief Officer. Compliance with the prerequisites of [Section 95A](#):

25. There is no dispute that the building is dilapidated and the redevelopment is being undertaken under [Regulation 33\(7\)](#) of the DCPR 2034. The Petitioners have given their irrevocable consents when the redevelopment proposal was approved. In Vasant Kheraj Bhanushali (supra), a Co-ordinate Bench of this Court has held that consent once given cannot be allowed to be revoked at the whims and fancies of the individual occupants. If that were to be allowed then no scheme could be implemented.

26. In the present case, the redevelopment has already progressed. Out of the 83 tenants/occupants, approximately 57 have already surrendered possession and executed PAAs with Respondent Nos.7 and 8. We are informed that currently, there are 10 occupants in possession of the dilapidated building under re- Page 26 of 32

7th October 2026 Uploaded on - 13/07/2026 Downloaded on - 14/10/2026 21:30:51 WP(L)-29228-2026-Judgment.doc development. Having regard to the peculiar facts and circumstances of this case, the Petitioners' insistence that every term concerning the redevelopment must first be finally resolved before [Section 95A](#) notices are issued cannot be accepted.

27. The affidavits filed by Respondent Nos.2 to 5 specifically state that the conditions contained in the NOC operate at different stages and include both conditions precedent and conditions subsequent. On the material before us, the conditions relied upon by the Petitioners either stand complied with, have been offered and not accepted by the concerned occupants, or are contractually/statutorily required to be complied with at a later stage. The mere fact that certain subsequent obligations remain to be performed cannot invalidate the action under [Section 95A](#). The affidavits confirm the said position and sufficiently addresses the grievance of the Petitioner about non-compliance with the conditions of the NOC particularly Condition Nos.9, 21, 24 and 26. For convenience, the same is extracted:

a) With respect to Clause 9 of the NOC, as per Clause No.5 (i) (b) of the G. R./[Act, Act. 48](#) of 2022 dated 2 nd December, 2022, the Respondent Nos.7 and 8 has already offered transit Rent to the Petitioner but the Petitioner has not accepted the transit rent.

Thereafter, the Respondent Nos.7 and 8 has deposited the cheque (including one year advance Rent and for next second year post Page 27 of 32 7th October 2026 Uploaded on - 13/07/2026 Downloaded on - 14/10/2026 21:30:51 WP(L)-29228-2026-Judgment.doc Dated Cheque) to the MHADA. Hereto annexed and marked as Exhibit - "R2- 1" is the copy of the G. R. dated 2nd December, 2022.

b) With respect to Clause 21 of the NOC, the Petitioner is staying with the existing old cess building and not in MHADA's transit camp. Therefore, question of shifting from Transit Camp does not arise. Further, the Respondent Nos.7 and 8 has deposited the cheque (including one year advance Rent and for next second year post Dated Cheque) to the MHADA.

c) With respect to Clause 21 of the NOC, the Respondent Nos.7 and 8 has already offered Corpus Fund to the Petitioner which was already distributed to the 53 Tenant/occupant out of 83 Tenants/Occupants of the existing old cess building but the Petitioner has not accepted the cheque of corpus Fund. Thereafter, the Respondent Nos.7 and 8 has deposited the cheque of Corpus Fund to the MHADA.

d) With respect to Clause 26 of the NOC, the NOC holder after obtaining IOD and before demolition of old cess building will have to deposit 10% amount of rahab component construction cost worked out as per prevailing construction cost mentioned to Ready Reckoner. The demolition of the old building has not yet commenced.

e) With respect to the Clause 22 of the NOC i.e. execution of PAAA, the NOC holder shall execute the PAAA with all the tenants / occupants certified by M.B.R. & R. Board on terms and conditions as agreed by and between NOC holder and the tenants / occupants and the copy of the registered PAAA shall be submitted to M.B.R. & R. Board before applying for grant of NOC from M.B.R. & R. Board for obtaining Commencement Certificate from MCGM for plinth level.

The Developer has not yet applied to the M.B.R. & R. Board for grant of requisite NOC for obtaining Commencement Certificate from the MCGM up to the plinth level.

28. The affidavit makes it clear that currently, there is no breach of any condition by the Developer on account of which the redevelopment process can be stalled. In writ jurisdiction, we cannot sit in appeal or review these factual assertions of statutory Page 28 of 32 7th October 2026 Uploaded on - 13/07/2026 Downloaded on - 14/10/2026 21:30:51 WP(L)-29228-2026-Judgment.doc authorities. The Petitioners' objections do not appear to be bona fide. In a project of this nature, the possibility of a few occupants seeking to gravitate in favour of a rival builder against a promise of additional incentives cannot also be ruled out.

29. Be that as it may, we accept the statements of Respondent Nos.7 and 8 that they are ready and willing to provide transit rent, corpus fund directly to the Petitioners and register the PAAAs on the same terms and conditions applicable to the other tenants. Thus, no prejudice would be caused to the Petitioners. We accept Dr. Sath's statement as per paragraph 19 of the affidavit dated 7 th September, 2026 that in the event of established non-compliance, the competent authority would take appropriate action, including revocation of the NOC, in accordance with law, if deemed necessary.

30. The reliance placed by Mr. Joshi on the decision of this Court in [Javed Abdul Rahim Attar](#) (Supra) is misplaced. The question in [Javed Abdul Rahim Attar](#) (Supra) was whether an Executive Engineer can be considered as Competent Authority for the purpose of Section 79-A. This Court has answered the said Page 29 of 32 7th October 2026 Uploaded on - 13/07/2026 Downloaded on - 14/10/2026 21:30:51 WP(L)-29228-2026-Judgment.doc question in the negative by considering the flagrant abuse of power and non-compliance with essential requirements laid down under Section 79-A. It was held that issuing notices based merely on visual inspections, without structural audits or declarations by a competent authority, constituted grave administrative overreach and abuse of statutory powers. Therefore, it is apparent that [the above decision](#) was recorded after taking note of the facts of that case. We see no reason to extend the jurisdictional disqualification accorded to an Executive Engineer for the purposes of Section 79-A to the exercise of power under [Section 95A](#) by applying the principles [laid down in Javed Abdul Rahim Attar](#) (supra).

31. Similarly, reliance placed on the decision of this Court in Jugraj Tejrj and Sons (Supra) is also of no assistance to the Petitioners. In the said judgment, a Co-ordinate Bench of this Court had reiterated the mandatory requirements of notice, hearing, fulfillment of NOC conditions by the Developer before initiating action against the occupants under [Section 95A](#). The authority of the Executive Engineer to issue the notice was not the issue raised in that case. In the present matter, the concerns raised by the Petitioners regarding non-compliance have been appropriately Page 30 of 32 7th October 2026 Uploaded on - 13/07/2026 Downloaded on - 14/10/2026 21:30:51 WP(L)-29228-2026-Judgment.doc dealt with by the Respondents in their affidavit dated 7 th September, 2026 and 10th September, 2026. The Respondents are empowered under the scheme of the [MHADA Act](#) to remedy the situation in case of any further non-compliance. Conclusion:

32. We accordingly find no jurisdictional error, breach of natural justice or illegality warranting interference under [Article 226](#) of the Constitution of India. The impugned proceedings have been initiated in furtherance of a sanctioned redevelopment scheme and within the framework of [Section 95A](#) of the MHADA Act. The Petitioners cannot be permitted to stall the project. Hence, all the Writ Petitions are dismissed.

33. Needless to mention herein that since the learned Advocate General has stated that Respondent Nos.2 to 5 shall ensure compliance of the NOC conditions and take action in case of any breach, we expect that the same shall be followed in letter and spirit.

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34. Rule is discharged.

35. There shall be no order as to costs.

(GAUTAM A. ANKHAD, J.)

(SUMAN SHYAM, J.)

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