



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

WRIT PETITION (L) NO.8672 OF 2026

- 1) Shakil Ahemed Nizamuddin Shaikh
Age- 52 years, Occupation-Service
R/N-5A, BMC Patra Chawl No.53,
S. P. Shed, Tank Pakhadi Road,
Byculla (West), Mumbai- 400 011.
- 2) Mohd. Ayub Abdul Gani Shaikh
Age-61 years, Occupation-Nil
R/N-9, BMC Patra Chawl No.52,
S. P. Shed, Tank Pakhadi Road,
Byculla (West), Mumbai- 400 011.
- 3) Abdul Rashid Abdul Gani Shaikh
Age-75 years, Occupation-Nil
R/N-7A, BMC Patra Chawl No.51,
S. P. Shed, Tank Pakhadi Road,
Byculla (West), Mumbai-400 011.
- 4) Nisar Ahmed Mohd. Razzaq Shah
Age-51 years, Occupation-Service
R/N-6A, BMC Patra Chawl No.54,
S. P. Shed, Tank Pakhadi Road,
Byculla (West), Mumbai- 400 011.
- 5) Abdul Samad Mohd. Ahmed Ansari
Age-70 years, Occupation-Business
Shop No.1, BMC Patra Chawl No.53,
S. P. Shed, Tank Pakhadi Road,
Byculla (West), Mumbai-400 011.
- 6) Tajammul Hussain Ali Hussain Ansari
Age-51 years, Occupation- Business (GS)
Shop No.1A, BMC Patra Chawl No.51,
S. P. Shed, Tank Pakhadi Road,
Byculla (West), Mumbai-400 011. ... Petitioners



Versus

- 1) Mumbai Municipal Corporation
For Greater Mumbai (MCGM)
Through its Commissioner.
BMC Head Office, Mahanagar Palika Road
Fort, Mumbai-400001
- 2) Additional Collector & Appellate Authority
Mumbai City at Old Custom
Old Custom, Shahid Bhagat Singh Marg,
Fort, Mumbai - 400 001
- 3) Assistant Municipal Corporation
E-Ward, MCGM Joshi Road,
Mumbai-400 060
- 4) Senior Colony Officer,
E Ward, MCGM, Mumbai- 400 060.
- 5) Zamzam Co-operative Housing Society
Through its Chairman/ Secretary
Shop No.1, Chawl No.49, S. P. Shed,
Patra Chawl, Tank Pakhadi Road,
Byculla (W), Mumbai-400 011.
- 6) M/s Hi Rock Constructions Pvt. Ltd.
101, Prathamesh Apartments,
Old College Road, Dadar (West),
Mumbai-400028.

.... Respondents

Ms. Archana Gaikwad a/w Mr. Harshal Khavale i/b Ms. Rutuja Gholap,
for the petitioners.

Mr. Ashish Kamat, Senior Advocate a/w Mr. Amrut Joshi, Mr. Aadil
Parsurampur, Mr. Aalam Parsurampur i/b. Mr. Prashant
Parsurampur, for respondent No.6.

Mr. Mayur Khandeparkar a/w Mr. Aseem Naphade i/b. Mr. Kunal
Haresh Punjabi, for respondent No.5.
Ms. Nazia Sheikh, AGP, for the respondent-State.



Mrs. Rutuja Bodake i/b. Ms. Komal Punjabi, for the respondent-MCGM.

Mr. Mahesh Mejari, Colony Officer, 'E' Ward.

**CORAM : M. S. KARNIK &
S. M. MODAK, JJ.**

DATE : 12th MARCH, 2026

JUDGMENT (PER M. S. KARNIK, J.) :

1. By this Writ Petition filed under Articles 226 and 227 of the Constitution of India, the petitioners pray for the following substantive reliefs :-

“a) This Hon'ble Court be please to issue writ of Mandamus or a writ, order or direction in the nature of Mandamus or any other appropriate writ, or order directing the Respondent No.1 MCGM and/or the Respondent No. 4 Colony Officer to carry out the survey of the Petitioners Structures within specified time.

b) This Hon'ble Court be please to issue writ of Mandamus or a writ, order or direction in the nature of Mandamus or any other appropriate writ, or order directing the Respondent No. 2 Additional Collector to decide the Appeals of the Petitioners within specified time.

c) This Hon'ble Court be please to issue writ of Mandamus or a writ, order or direction in the nature of Mandamus or any other appropriate writ, or order directing the Respondent No.2 Additional Collector to include the Petitioners name in the Supplementary



Annexure-II of the Respondent No.5 society after giving them hearing and verifying their documents within specified time.”

2. The petitioner Nos.1, 2, 3 and 4 claim to be residing at the address mentioned in cause title since 1995 along with their family members. The petitioner Nos.5 and 6 are doing business in a part of the premises. The Mumbai Municipal Corporation for Greater Mumbai (“MCGM”, for short) owns the land over which the structure is situated. A composite redevelopment is being carried out. It is the case of the petitioners that CTS No.1840 (part), Byculla Division, Mumbai, the land which is owned by the BMC, comprised tenements, and also on the same CTS number the Slum Structures have been situated since 1995, and are protected structures under the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (“Slum Act”, for short). The Corporation had decided to carry out the composite redevelopment under Section 33(7) of Development Control and Promotion Regulation, 2034 (“DCPR”, for short) and Section 33(10) of the Slum Act.

3. In the year 2017, the Corporation decided to redevelop the BMC Chawls along with the adjacent Slum. 50 percent structures, according to the petitioners, are BMC tenements and the remaining are slum structures. The residents of CTS No.1840 (part) had formed a



Society which is known as Zamzam Co-operative Housing Society-the respondent No.5. The said Society has appointed respondent No.6 as a developer for redevelopment under Section 33(7) of DCPR, 2034 and Section 33(10) of the Slum Act.

4. The Society and the Developer submitted the proposal before the Corporation for redevelopment. The Corporation issued a Letter of Intent (LOI) and Intimation of Disapproval (IOD) in the name of respondent No.6-Developer.

5. In the year 2018 a survey of the BMC Chawl Structures as well as the Slum Structures situated on CTS No.1840 (part) was carried out and Annexure-II of the BMC Chawl and Slum Dwellers was prepared by respondent No.3-Assistant Municipal Corporation ("AMC", for short) and respondent No.4-Senior Colony Officer respectively. It is the case of the petitioners that at the time of preparing the Annexure-II of the BMC Tenants and Slum Dwellers, the structure of the petitioners was neither taken on record by respondent No.3 nor respondent No.4. When the petitioners came to know about the said fact, they approached the respondent No.5-Society and respondent No.6-Developer. The petitioners were pursuing the matter with the different departments of the Corporation.

6. It is the case of the learned counsel for the petitioners that the



structure of the petitioners is protected under the Slum Act. Hence, they have filed appropriate appeal under Section 35 of the Slum Act before the respondent No.2-Additional Collector & Appellate Authority on 5th March 2026 and 6th March 2026. Learned counsel for the petitioners submitted that their opposition is neither towards the Scheme nor towards vacating the structure and handing over the same for redevelopment. However, for determining eligibility, the existence of the structure is important. The survey was not carried out, though the petitioners had approached the authority and had taken proper steps for the same since 2018. It is the submission that at the time of deciding the eligibility of the petitioners/Slum Dwellers, they need to prove that their structure was in existence when the scheme was introduced or prior to it. It is the submission of the learned counsel for the petitioners that the said fact can be proved by the survey carried out by the concerned department or by Annexure-II. However, the petitioners' structure is neither shown on the survey nor in the Annexure-II by the concerned department. Learned counsel for the petitioners submitted that if the petitioners' structures are demolished without survey, it would be difficult for the petitioners to prove the existence of their structures and they will be deprived from the legitimate Right to Shelter guaranteed under Article 21 of the Constitution of India, though they are having all relevant documents and they will become homeless and



left without any protection.

7. We have heard learned counsel for the respondents. Mr. Khandeparkar for the Society has produced the compilation of documents and oral submissions opposing the petitions. We have heard Mr. Ashish Kamat, Senior Advocate for the developer. Writ Petition (L) No. 2897 of 2026 was filed by the petitioner No.6 herein challenging the notice dated 20th January, 2026 issued by the Corporation calling upon the petitioners to vacate their respective structures within 7 days from the date of notice. This Court disposed of Writ Petition (L) No. 2879 of 2026 by passing the following Order:-

“a. The Petitioners have agreed to vacate their respective structures and handover possession thereof to Respondent No. 7, on or between 1st March 2026 and 5th March 2026. Statement is accepted.

b. Simultaneous with the Petitioners vacating their structures, Respondent No. 7 developer undertakes to provide them rent for transit accommodation, at parity with other tenants;

c. Within 10 days of the Petitioners vacating their respective structures, Respondent No. 7 undertakes to execute Agreements for Permanent Alternate Accommodation with each of them, at parity and on same terms with the other tenants;

d. The Petitioners have already made applications to Respondent No.6 along with the relevant documents and



paid the requisite amounts for seeking membership. Respondent No.6 society agrees to grant membership to these Petitioners;

e. The Petitioners also agree, within 14 days from today, to withdraw their application for de-registration of Respondent No. 6 society pending before the Ld. Deputy Registrar, E Ward. f. The measurement of the writ property has already been carried out, and the Municipal Corporation has certified that the Petitioners are eligible for allotment of a tenement upon redevelopment.”

8. Thus, it is seen that this Court has clearly observed that the subject redevelopment affects 117 tenants, out of which 96 have accepted rent from the developer⁷, and 89 of them have vacated their respective premises. It is further pertinent to notice paragraph No.3 of the aforesaid Order which records that the measurement of the suit property has already been carried out, and the Municipal Corporation has certified that the petitioners therein are eligible for allotment of a tenement under redevelopment.

9. We find that the petitioners are now trying to make out the case that a proper survey was not carried out. They are questioning the survey which was conducted in the year 2018 pursuant to which the Annexure-II, regarding the list of eligible tenant/occupant of Municipal plot in question, was also prepared. In the said Annexure-II, the name



of the present petitioner No.6 is shown at serial No.81 in respect of chawl and Room No.51/1. The name of the eligible tenant, as certified by A. C. (E)/DMC (Z-I), is shown as that of petitioner No.6. The User is shown as commercial. The area indicated is 17.35 sq. mtrs.

10. It is pertinent to note that so far as petitioner No.1 is concerned, his claim is pertaining to Room No.5A Chawl No.53. The actual certified occupant as per Annexure-II in respect of Room No.5 is shown as Nizamuddin Mohd. Nazir. The Municipal Corporation of Greater Bombay has already sent a letter on 20th June, 2018 to petitioner No.1 stating that Room No.5 is standing in the name of Nizamuddin Shaikh and that petitioner No.1 has split the room, and therefore his demand for a separate room cannot be entertained, as there is no regulation permitting such splitting. The Corporation has sent a letter dated 28th November, 2018 to petitioner No.1 stating that each chawl has two rooms and there is no proof for petitioner No.1's claim to Room No.5A which is an illegally constructed room and hence not forming part of Annexure-II. Petitioner No.1 has, by letter dated 2nd June, 2025, which is at page 99 of the paper-book, requested that Room No.5 be split up and he be recognized independently as an occupant of Room No.5A. In respect of Room No.5, petitioner No.8 in Writ Petition (L) No. 2879 of 2026 was Mr. Atikur Rehman Nizamuddin Shaikh who has agreed to vacate and accepted rent from the developer for full



Room on 12th February, 2026.

11. So far as the petitioner No.2 is concerned, he has claimed Room No.9 in Chawl No.52. As per Annexure-II one Abdul Hamin Abdul Gani is tenant of Chawl No.52 Room No.9. MCGM sent a letter dated 26th June, 2018 to petitioner No.2 stating that Room No.9 is standing in the name of Nizamuddin Shaikh and petitioner No.2 has split the room, and therefore his demand for a separate room cannot be entertained, as there is no regulation permitting such splitting. The Corporation sent a letter dated 20th November, 2018 to petitioner No.2 stating that each chawl has 12 rooms and there is no proof for petitioner No.2's claim to Room No.9 which is illegally constructed and is not forming a part of Annexure-II. It is the petitioners' claim that Room No.9 be split up and he be recognized independently as an occupant of Room No.9.

12. So far as petitioner No.3 is concerned, his claim is for Room No.7/A in Chawl No.51. The Corporation has sent a letter dated 20th March, 2018 to petitioner No.3 stating that Room No.7 is standing in the name of Mohammed Haroon Abdul Gani Shaikh and petitioner No.3 has split the room, and therefore his demand for a separate room cannot be entertained as there is no regulation permitting such splitting. For the some reasons as mentioned hereinafter, it has been informed by



the Corporation that such a split up cannot be permitted and petitioner No.3 cannot be independently recognized as an occupant of Room No.7A. The occupant of Room No.7 whose name is there in the Annexure-II has agreed to vacate and has accepted the amount from respondent No.5 on 19th February, 2026.

13. So far as petitioner No.4 is concerned, he claims Room No.6A in Chawl No.54. One Rasoolbai Mohd Razzak has agreed to vacate the premises and has accepted rent from the developer on 19th February, 2026 for the entire Room No.6.

14. The petitioner No.5 claims Shop No.1 in Chawl No.53. So far as Shop No.1 in Chawl No.53 is concerned, the same is shown in the name of Sheikh Rehmat Ali Abbas Ali in Annexure-II. Petitioner No.5 claims at page No.268 of the Writ Petition that he runs a “Paan Beedi Shop” on the footpath outside Shop No.1 and that his property is not a part of MCGM estate department.

15. As indicated earlier, the petitioner No.6 claims Shop No.1A in Chawl No.51. Petitioner No.6 was petitioner No.1 in Writ Petition (L) No. 2879 of 2026 wherein he claimed Shop No.1 in Chawl No.51. Petitioner No.6 accepted rent from respondent No.5 on 19th February, 2026 but has not yet vacated his Shop No.1 as per the order dated 19th



August, 2024. Petitioner No.6's Shop No.1 has been certified for entire area of 17.35 sq. mtrs and there is no Shop No.1A existing on site.

16. It is thus seen that the attempt on the part of the petitioners in filing the present writ petition is not at all bonafide and is only with a view to get additional benefit in the redevelopment scheme though they are not entitled to be included in Annexure-II. The case is now made out that as the Slum Scheme is developed and since there was no survey in respect of the structures, the petitioners were occupying, they should be held eligible for which the appeal has been filed before the appellate authority under the Slum Act. If the petitioners are found eligible, obviously the consequences will follow. They may pursue their remedy before the appropriate forum. However, it is not possible for us to grant any relief to the petitioners in this writ petition, as the petitioners have not been able to demonstrate that they were occupying separate structures which remained to be surveyed. The Corporation had refused the request to split the rooms to which there was no challenge. The survey was conducted on the basis of which Annexure-II was issued. The petition is dismissed with liberty to pursue their remedies as may be available in law. We refrain from imposing costs.

(S. M. MODAK, J.)

(M. S. KARNIK, J.)