

**IN THE HIGH COURT OF JUDICATURE AT
BOMBAY ORDINARY ORIGINAL CIVIL
JURISDICTION WRIT PETITION (L)
NO.1456 OF 2021**

Shakil Mohammed and 36 ors .. Petitioners
Versus
State of Maharashtra and ors .. Respondents

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Mr. M.A. Khan for the petitioners.
Mr. Shamrao B. Gore, AGP for the State – respondent
no.1. Mr. Chandra Naik with Ms. Chaitali Gosavi for
respondent nos.5 and 6.
Ms. Oorja Dhond for MCGM.

**CORAM: DIPANKAR DATTA, CJ &
G. S. KULKARNI, J.
DATED : 9th MARCH, 2021**



P.C.:-

1 Reply, rejoinder affidavits are permitted to be filed in the Registry. Municipal Corporation is directed to file an affidavit to explain as to what steps the Corporation would propose to take with regard to the project in question, which is already delayed. The building in question on the Corporation's land was demolished in the year 2015, the petitioners who are stated to be the tenants of the Corporation are without a roof over their heads since then. It is informed that despite lapse of more than five years, construction only upto the plinth level has been undertaken by respondent no.5 developer. This is another sad state of affairs and would certainly require a serious concern

on the part of the municipal corporation on the issue as to whether such a policy, which permits the existing tenants to hand over the property of the municipal corporation (a public largesse) to such developers who are not in a position to undertake such projects, can at all be sustained or a new policy is required to be adopted, so that developers who are really bonafide, genuine and competent and who can fulfill all norms and expectations to complete the construction in a time bound schedule as per the LOI, can be appointed “only by the municipal corporation.”

2. We may also take judicial notice of the fact that large number of litigants are knocking the doors of this Court concerning projects, in which the developers have failed to fulfill their obligations to complete the construction for long years, either of slums scheme or such other redevelopment. This has created an alarming situation, to the effect that large number of citizens are homeless and are made to suffer at the hands of such developers. It is not possible for every such person to approach the Court and litigate. It is noticed that such developers have no wherewithal to undertake a redevelopment project. As to whether the developers are genuine developers who by themselves undertake the project or the project is undertaken by other persons who are entrusted with the actual work by such defunct developers, is another question, in the scheme of things.

3. In these circumstances, we would also request the State Government to ponder over the issue as to whether, is it not the need of the time, that the statutory authorities maintain a

panel of developers registered with them, whose competence on all fronts to execute a project stands tested by either the Government or other statutory authorities and who can be entrusted with the work of development/re-developement, so that the citizens are assured that the construction when undertaken is completed in a time bound manner and that there would be certainty of a roof over their heads. This is also the object of the relevant social legislations.

4. Let a affidavit on the issue as noted by us, be filed by the State Government as also by the municipal corporation.

5. We would request the learned Advocate General to appear for the State of Maharashtra to address the Court.

(G.S. KULKARNI, J)

CHIEF JUSTICE

Prashant V. Rane
V. Rane
Digitally signed by Prashant V. Rane
Date: 2021.03.09 20:56:04 +0530