



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 798 OF 2007

Pune Housing And Area Development Board
Through its Estate Manager,
Having office at Grihanirman Bhavan,
Agarkar Nagar, Pune – 411 001

...Petitioner

Versus

Vithal Shripati Ladkat
Age: Adult, Occup. Business,
Residing at B-2, Mudhukunj Co-op. Hsg.
Society Ltd., Paud Road, Pune-38
(through legal Guardian)
Shri. Jaideep Vithal Ladkat,
R/at – 903, A/1 Kumar Prashana Society, Fatima
Nagar Road, Near Wanewadi Smashan Bhumi,
Jambakar Chaowk, Wanewadi, Pune - 411040

...Respondent

SNEHA
NITIN
CHAVAN

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NITIN CHAVAN
Date: 2026.06.19
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Mr. Uday Warunjikar for the Petitioner.
Mr. Nitin Mulye for Respondent.

CORAM : M.M. SATHAYE, J.

DATE : 17th JUNE, 2026

JUDGMENT:

1. The Petitioner is a Housing and Area Development Board, Pune ('the Board' for short). It has filed the present petition under Article 226 and 227 of the Constitution of India, challenging the order dated 06.10.2006 passed in Appeal No. 1 of 1996 and 44 of 1996 by the In-Charge Appellate Officer-II (President, Maharashtra Slum Area I.C. & R Tribunal, Mumbai). By the said order, appeal filed by the Petitioner was dismissed and appeal filed by Respondent was allowed so far as order of eviction (as directed by Competent Authority) is concerned. By the impugned order, the appeal of the Respondent, so far as it relates to

price fixation, was disposed of as infructuous.

2. A tenement bearing No. B-2 Madhukunj Housing Society situated at L.I.C Colony, Kothrud- Pune is the subject matter of dispute and it is hereinafter referred to as suit flat for short.

3. Short background of the dispute is as under.

3.1. The suit flat was allotted to Respondent by order of State Government as a special case under Maharashtra Housing and Area Development Act, 1976 ('the said Act' for short). A letter dated 26.07.1993 to that effect was issued by the Desk Officer of the State to Chief Executive Officer of Maharashtra Housing Board. Its copy is tendered in Court it is taken on record as page No. 11A in the petition, by consent of parties.

3.2. The allotment was from 2% quota of the government. The order of allotment was issued with a direction that price of the suit flat should be recovered. However, it was directed that possession should be given to the Respondent immediately after satisfying necessary formality and on securing deposit amount. The price of the suit flat was not fixed at the time of allotment.

3.3. By a letter dated 24.05.1995, the Respondent was communicated the price fixed i.e. Rs.5,51,000/- and the Respondent was asked to pay this amount. By letter dated 14.07.1995, the Respondent was informed that if he does not pay the amount, then action of dispossession will be initiated. The Respondent did not pay the amount. Therefore, the Estate Manager moved Competent Authority, who issued Notice under Section 66(2) of the said Act.

3.4. The Respondent filed his reply dated 27.11.1995 contending *inter alia* as under. That since the allotment is by the order of the Government, consent of Chief Minister is necessary before issuing

notice. That no price of suit flat was fixed, much less intimated to the Respondent prior to delivery. That the rate at which price is fixed is not known. That for the reserved quota of 2% the rate at relevant time was between Rs.180 to Rs. 225 per sq. ft. That the amount charged from 1987 till allotment was disputed. That the Respondent has paid Rs.50,000/- to the Board and the price of the suit flat would not exceed Rs.1,41,130/- which is proper price. That Respondent is ready to pay the remaining amount.

3.5. The Competent Authority Pune Division, Pune who heard and tried Case No. 28 of 1995 passed order dated 07.02.1996. The Competent Authority was pleased to hold that Respondent has not paid the amount lawfully due from him for a period more than 2 months. It is further held that Respondent acted in contravention of terms under which he was authorized to occupy the suit flat. It was also held that consent of the Government or Chief Minister is not required. The Competent Authority considered what is the amount lawfully due and arrived at a figure of Rs.2,56,405.57 as amount lawfully due and held that since this full amount is not paid, notice to vacate is necessary. Ultimately notice was issued to the Respondent to vacate the suit flat.

3.6. Admittedly, the Respondent paid the balance amount as per calculation of the Competent Authority.

3.7. The Respondent however filed Appeal No. 1 of 1996 under Section 70 of the said Act, challenging the said order. The Petitioner-Board also filed Appeal No. 44 of 1996 challenging the above order for non consideration of its claim for remaining amount.

3.8. The Appellate Officer who heard and tried both the appeals together passed the impugned order dated 06.10.2006 thereby dismissing Petitioner's appeal and allowing Respondent's appeal partially, setting aside the eviction.

3.9. In these circumstances, the Petitioner filed the present petition, which was admitted on 05.12.2007.

SUBMISSIONS

4. Learned counsel Mr. Warunjikar, appearing for the Petitioner, submitted as as under.

4.1. He submitted that Regulation No. 22 of the Maharashtra Housing and Area Development (Estate Managements, Sale, Transfer and Exchange of Tenements) Regulations 1981 ('the said Regulations' for short) , provides for power of the Board to increase the price of tenement. That it starts with a *non-obstante* clause giving overriding effect over other document, instrument or agreement. That the power to revise price applies to price of tenement already specified in the notice or agreement. That Regulation No. 15 of the said Regulations also provides for variations of the price of tenements. That the facts of the present case squarely fall under Regulation Nos. 15 and 22 read together and since the tenement was constructed in 1987 and allotted in 1993 with a gap of about 6 years, the Authority was well within its power to increase the amount, including expenditure in the form of supervision charges and construction escalation cost. That the revised price demanded in eviction notice represents amount lawfully due and therefore, ought to have been paid by the Respondent.

4.2. He submitted that the Competent Authority under Section 66 of the said Act does not have jurisdiction to revise the amount from Rs.5,51,000 to Rs. 2,56,405/- and the power is limited to inquire into and adjudicate upon whether the occupant is liable to be evicted. It does not include power of revision of price. That power to revise exclusively vests in the Board as provided in Regulation No. 22. That therefore, the reduction in the amount by the Competent Authority is

without jurisdiction and is liable to be set aside. He relied upon **Raghunath Gopal Manjire & Anr. v/s. The Competent Authority and others.** [1977 (4) SCC, 578], in support of his submission that the Board's power to revise financial obligation of allottees is judicially recognized principle. He submitted that this principle is now elevated to statutory provision under Regulation No. 22 of the said Regulations. He further submitted that the Competent Authority derives its jurisdiction and powers from Section 65 of the said Act, while the manner and scope of exercise is provided under Section 66 thereof. He submitted that the Competent Authority is required to satisfy only with regard to existence of statutory conditions namely whether there has been default in payment of rent compensation or any amount lawfully due for the particular period and upon so satisfied, to issue notice calling upon the occupant to show cause against eviction. He submitted that statutory scheme does not confer upon Competent Authority any adjudicatory jurisdiction to re-open, re-assess, revise or determine correctness of quantum of rent, compensation or other amounts claimed by the Board. He submitted that the inquiry under Section 66 does not extend to determination of legality, propriety or re-calculation of amount itself and any such exercise amounts to traveling beyond the jurisdiction.

4.3. He submitted that section 69 of the said Act circumscribes the power of the Competent Authority under Section 66 and confers limited powers akin to those of Civil Court namely power to summons and enforce the attendance of the witness, required discovery of production of documents and exercise such other powers as may be prescribed. He submitted that these powers are merely incidental to effective conduct of inquiry and cannot be construed as enlarging the jurisdiction.

4.4. He submitted that the legislative intent is further evident from Section 70 of the said Act which provides statutory remedy of appeal against order passed by the Competent Authority, which the legislature has consciously provided as limited and expeditious appellate mechanism. He submitted that under Section 70(5), such appeals are supposed to be disposed of expeditiously. That therefore, the statutory framework demonstrates the proceedings are intended to be summary and time bound. He submitted that permitting either Competent Authority or Appellate Authority, to adjudicate on quantum of dues would not only be contrary to express scheme of the Act but would frustrate the legislative purpose behind it.

4.5. He submitted that price fixation at a particular point of time is a complex function and is undertaken by the Board by considering various parameters involved, such as premium on land, legal and other incident expenses including supervision charges. He submitted that the Board has therefore adopted the method of interest capitalisation by charging interest from July 1987 onwards.

4.6. He lastly submitted that the Respondent was a President of the Housing Board at the relevant time and had full knowledge of the rules and regulations and therefore, cannot claim protection of ignorance. That partial payment made by Respondent does not create any equity.

4.7. He relied on page No. 54 of the petition by which calculations are submitted, which according to Petitioner, are lawfully due. He submitted that therefore, eviction notice sent to Respondent as well as the payment of Rs.5,51,000/- are required to be upheld and the impugned order of the Appellate Authority is required to be set aside.

5. On the other hand, Mr. Mulye appearing for the Respondent submitted as under.

5.1. He submitted that the Competent Authority can consider what is the amount lawfully due and it cannot be said that the calculation made by the Board cannot be gone into. That if such interpretation is accepted, then the concerned officers may charge exorbitant amounts and the Competent Authority will be precluded from going into its legality, which can not be legislative intent.

5.2. He submitted that no intimation was given to Respondent about amount payable by him or about price fixation, till the letter/notice was issued in May 1995 and therefore, the Respondent cannot be held liable to pay interest till such time. He further submitted that in any case no interest can be charged till the time suit flat was allotted to him i.e. till July 1993.

5.3. Relying on Regulation No. 16, it is submitted that the suit flat is allotted to Respondent as per direction of the State Government and therefore the directions under allotment letter must prevail. Inviting the Court's attention to allotment letter dated 26.07.1993, he submitted that the Board was directed to complete the formalities and immediately allot the suit flat and since no price was fixed or terms and conditions were informed before putting the Respondent in possession of suit flat, the Petitioner cannot subsequently imposed terms and condition or interest on the price of the suit flat. He further submitted that the amount payable or interest thereon was never communicated to the Respondent till May, 1995, when the price was informed as Rs.5,51,000/-.

5.4. He submitted that in any case, right from the stage of filing reply, Respondent has shown willingness to pay and has in fact paid amount as per calculation of the Competent Authority. That therefore the Respondent should not be evicted.

REASONS AND CONCLUSION

6. I have considered the rival submissions carefully and perused the record.

7. It is important to note in the beginning that under allotment letter dated 26.07.1993, though a direction was given to MHADA for immediate allotment and handover of suit flat, it was directed that formality be completed and initial deposit amount be secured. The same allotment letter directed the Respondent to contact the Chief Executive Officer of the Petitioner-Board about 'actual terms and conditions for payment of money'. The Respondent is taking a convenient stand that once the suit flat is allotted, the Petitioner cannot demand the price or other components including interest from the Respondent. It does not stand to reason that when a flat is allotted to a citizen under order of the Government from per-cent quota, he will not be asked for amount legally due, including the price and other components such as interest. The allotment letter does not indicate any concession given to the Respondent about price or other components such as interest. In fact, the allotment letter expects the Respondent to meet the Chief Executive Officer for particular terms and conditions about payment of money. Nothing is brought to the notice of the Court that the Respondent contacted the CEO of the Board to understand the terms and conditions. It cannot be accepted as legal argument that the allottee will not abide by the terms and conditions of the allotment and claim that whatever initial deposit or payment is made according to his own sweet will, should suffice and legally due amount should not be asked for.

8. Perusal of Section 66(1) of the said Act provides that the Competent Authority has power to evict certain persons if it is satisfied that the person authorized to occupy any authority premises (i.e.

allottee) has not paid 'amount lawfully due' from him in respect of such premises for a period of more than 2 months. The Respondent squarely falls under Section 66(1)(a)(i) of the said Act.

9. Now let us consider the argument of learned counsel for the Petitioner that the Competent Authority has no jurisdiction to re-open, re-assess, revise or determine correctness of quantum and cannot adjudicate the amount lawfully due. Having considered provisions of Chapter VI i.e. sections 65 to 72 of the said Act, in my view, this argument is not well-founded, for following reasons.

9.1. Section 65 of the said Act provides that Competent Authority is not below the rank of 'Deputy Collector or Civil Judge'.

9.2. Section 66 of the said Act provides for various grounds of eviction; such as non payment of rent, compensation or amount lawfully due, subletting without permission of authority, committing act destructive or injuries to the premises, making material addition and alteration to the premises, act of contravention of terms of occupation, failure to vacate for the purpose of implementing any plan or project, being in unauthorised occupation. The Competent Authority can issue notice asking a person to vacate the premises. It is further provided that before an order of issuing notice to vacate, the Competent Authority is required to issue notice specifying ground on which eviction is proposed and required the person concerned to show cause against proposed order. It is also provided that if a person seeks extension of period then the Authority may grant such extension on deposit of money. Written statement is provided to be filed by the person before Competent Authority by Advocate or legal practitioner. If the person refuses or fails to comply with the order, then eviction by use of force is also provided. Only for the purpose of apportionment of balance

amount payable, a reference to Civil Court is provided. The word 'lawfully' used in section 66(1)(a)(i) itself indicates that if any amount is demanded as due, then it has to be 'lawfully due'. If the competent authority is empowered to evict the allottee on the basis of non payment of such dues, then 'whether an amount is lawfully due or not' becomes the basis of such eviction.

9.3. Section 67 provides for power to recover rent, compensation, amount or damages as arrears of land revenue.

9.4. Section 68 provides for rent, compensation or amount to be recovered for deduction from salary or wages in certain cases.

9.5. Section 69 provides that 'Competent Authority to have powers of Civil Courts'. It provides that the Competent Authority, for the purpose of holding inquiry have the same powers as are vested in Civil Court, under the Code of Civil Procedure, 1908, when trying a suit in respect of summoning and enforcing attendance of any person and examine on oath, requiring the discovery and production of documents and any other matter which may be prescribed.

9.6. Section 70 deals with appeals, where it is provided that an appeal shall lie from every order of the Competent Authority under Section 66 and 67 of the said Act to the Appellate Officer. It is further provided that the Appellate Authority shall be a person not below the rank of Deputy Secretary to Government having judicial department of the State or a person who has for at least 10 years held any judicial office.

9.7. Section 71 of the said Act bars the jurisdiction of the Civil Court to entertain any suit or proceedings in respect of eviction of any person or recovery of arrears of rent, compensation, amount or damages or in respect of order made or action taken by Competent Authority or the Appellate Authority.

9.8. Section 72 contemplates penalty for obstructing lawful exercise of powers under the said Chapter and on conviction such person can be punished with fine.

9.9. Considering the above entire scheme of Chapter VI of the said Act, it is a code in itself for the purpose of eviction from authority premises and for recovery of dues. The jurisdiction of Civil Court is barred. Therefore, if the power of the Competent / Appellate Authority is interpreted in a restricted / limited manner, as suggested by learned Counsel for the Petitioner, the allottee will be left in a situation where no authority under the said Act will have power to scrutinize whether the amount claimed by the officers of the Board is lawfully due or not. Such interpretation will result in unchecked powers with the officers to demand unlawful dues. Such interpretation can not be countenanced. Therefore, the argument of the learned Counsel for the Petitioner about restricted jurisdiction of Competent Authority or Appellate Authority is rejected.

9.10 In that view of the matter, it is not possible to accept that the Competent / Appellate Authority can not go into calculation of amount lawfully due which is the basis of the eviction.

10. Now returning to the case in hand. The Competent Authority has considered that the suit flat was allotted without fixing any price and even deposit amount was not fixed. The Competent Authority has rightly considered that it does not necessarily mean that the allottee was expected not to pay anything to the Board towards purchase price of the suit flat. Therefore, it is rightly held that merely because price was not fixed earlier, it would not absolve the Respondent from liability to pay.

11. The Competent Authority has considered that allotment is of the year 1993 and therefore the interest till such date cannot be

recovered from the Respondent. In this respect, it is important to note that the price of suit flat in 1987 is taken as Rs. 1,41,130/-. So it does not stand to reason that till 1993, that is even after a gap of 6 years, at a location like Kothrud-Pune, the price will remain the same and nothing can be added on the said price from 1987 till 1993 when it was allotted to Respondent. The Petitioner Board has applied the method of interest capitalization for arriving at the price in 1993. Considering that interest @ 12.5% p.a. is added coupled with the time period involved, from 1987 till 1993, when the prices of real-estate in the concerned area was increasing, especially after 1991 when economic liberalization happened, the method or percentage can not be called without basis or illegal.

12. Regulation No. 17(1) contemplates that the authorized officer is expected to send an intimation of allotment in Form-II to every eligible Applicant and on receipt of such intimation, the allottee may within a period specified in the letter, accept allotment of tenement in Form-III and pay the amounts referred in Form-II. Perusal of Form-III indicates that the allottee is expected to accept the offer of allotment on terms and conditions set out in the Appendix to the letter in Form-II. Perusal of Form-II indicates that eligibility to allotment is subject to terms and conditions, as set out in the Appendix, and the payment can be demanded for 'cost of tenement' together with 'proportionate amount of premium on the land' and 'other incidental expenses'. In the present case, for reasons best known to the Petitioner- Board, may be because of the allotment by the Government from per-cent quota, the Petitioner neither issued any letter in Form-II as an offer/intimation, nor the Respondent issued acceptance letter in Form-III.

13. When it is a statutory requirement under the applicable Regulations that the allotment is subject to terms and conditions and

subject to payment demanded, mere direction by the State Government that a tenement be allotted to particular allottee on completion of formalities and acceptance of initial deposit amount, will not absolve the Authority or the allottee from payment of amount lawfully due and demanded. After all, the Petitioner deals with public money and the Respondent cannot be allowed to claim any privilege so as to be not bound by the Statutory Regulations. Government quota can secure entry in the project, but price fixation and liability to pay can not be done away with.

14. Regulation No.15 provides that price at which tenement is offered could vary in cases where considerable time has elapsed till actual allotment. Regulation No. 22 provides for Regulation No. 22 provides that if expenditure incurred on supervision has increased the cost of tenement, the Board shall be competent to revise the price already specified in notice or agreement and all allottees shall be bound by such revision. It is material to note that this regulation starts with non-obstante clause giving it overriding effect on earlier notice or agreement.

15. Mr. Warunjikar is therefore right in his submission that payment can be demanded together with proportionate amount of premium and other incidental expenses in view of time elapsed till allotment. Time elapsed has direct connection with market appreciation. In my considered view, in a place like Kothrud-Pune, a tenement constructed in 1987 and the land beneath therein can not be expected to remain static in its value. It also can not be expected that no expenses will be required as 'incidental expenses' for maintaining the tenement from 1987 till 1993. Therefore, the increase in the price by way of interest capitalization cannot be faulted.

16. There is nothing on record to show that the Respondent

contacted the CEO as was expected under the allotment order. There is nothing on record to show that Respondent made any efforts to know the terms and conditions of payment. In such circumstances, if the Petitioner has issued letter/notice and demanded amount, such demand cannot be faulted with. In that view of the matter, the Competent Authority has erred in concluding that no additional amount can be claimed from the Respondent towards interest capitalization from 1987 till 1993.

17. The Appellate Authority has held that the law officer of the Petitioner could not explain about charging of interest and therefore, it is held that interest cannot be claimed. It is further held by the Appellate Authority that the law officer could not explain the profit added towards locational advantage. Even if the law officer could not explain the charging of interest or locational advantage, it would not have any bearing on the statutory requirement and the Regulations as explained above.

18. However if the Petitioner Board knew that price has not been paid by Respondent even after allotment in July 1993, there is no explanation why the Board remained silent till May 1995 to issue notice. Therefore factoring in 2 months' statutory period under section 66(1)(a)(i) from July 1993, the demand ought to have been made immediately in September 1993. The Petitioner Board has waited till May 1995 for reasons best known to them. Therefore Petitioner can not claim interest from September 1993 till May 1995. However, from May 1995, when amount was demanded, considering that parties resorted to legal action, interest @9% p.a. appears to be legal and valid.

19. The Appellate Authority on finding that the Respondent has already made payment to the Board as per determination by Competent Authority, it is held that the eviction order has been rendered

unjustifiable and therefore, it was set aside. Since it is found that the amount demanded by adding interest and other incidental charges cannot be faulted with, it is necessary that the Respondent pays remaining amount also, albeit calculated in the light of what is observed above.

20. The Petitioner has given the cost of suit flat in a chart Exhibit-F, wherein amount of interest capitalization is added and the amount of Rs.51,000/- paid by the Respondent is already adjusted.

21. The Competent Authority had determined amount of Rs. 2,56,405/- considering 4 amounts, viz. price of flat, some interest, price of furniture and interest on price of furniture. It appears that this amount is made good by the Petitioner after adjusting amount paid already by him. So far as the demand towards furniture cost or interest thereon is concerned, the same is not seriously pressed by the learned counsel for Petitioner. Therefore said heads are not being considered.

22. Considering that the Respondent is occupying and residing in the suit flat ever since 1993, it will be unjust to pass an order of eviction after so many years, without an opportunity to pay balance amount. In that view of the matter, in the interest of justice, Respondent is directed to pay the remaining amount and continue with the possession, subject to such payment. The amount is reworked in following manner.

Event	Date	Effect	Amount
Flat constructed.	July 1987	Initial cost	1,41,130/-
Flat allotted to Respondent	26.07.1993	(add) 12.5% p.a. interest from July 1987 till July 1993 (as calculated by Petitioner)	1,07,259/-
		Sub-total	2,48,389/-
Payment by Respondent	29.07.1993	(less)	11,000/-
Payment by Respondent	10.06.1994	(less)	40,000/-
		Balance due	1,97,389/-

Amount demanded by Petitioner therefore interest starts.	24.05.1995	(add) Interest @9% p.a. (Rs. 1480/- p.m. x 10 months) from May 1995 upto February 1996 when amount was determined by Competent Authority	14,800/-
		Sub-total	2,12,189/-
Approximate amount seems to be paid by Respondent towards cost and interest (furniture price and interest thereon not considered)	Shortly thereafter	(less)	*1,21,939/- *(1,41,130/- + 31,809/- - 50,000/-)
		Balance due	90,250/-
	From June 1995	(add) Interest @ 9% p.a. (Rs. 8,122.5/ - x 31 years) from June 1995 till today	2,51,797/-
		Total amount due, as on today	3,42,047/-

23. In that view of the matter, the petition partly succeeds. Respondent is directed to pay remaining amount of Rs.3,42,047/- to the Petitioner within a period of 2 weeks from today. Subject to such payment, the Respondent can continue to occupy the suit flat. If amount is not paid as directed, the Petitioner is at liberty to press for eviction.

24. Rule is made partly absolute and writ petition is disposed of in above terms. No order as to costs.

25. All concerned to act on duly authenticated or digitally signed copy of this order.

(M.M. SATHAYE, J.)