

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

WRIT PETITION NO. 1334 OF 2019
WITH
INTERIM APPLICATION NO.2069 OF 2021

- 1 Shivaji Nagar Rahivashi Co-operative)
Housing Society Limited,)
a society registered under the provisions)
of the Maharashtra Co-operative Societies)
Act, 1960 bearing registration no. 1373/2004))
having its registered address at)
at G-4, Shivaji Nagar, D. G. Mahajani Path)
Sewree, Mumbai – 400 015)
- 2 Coventry Properties Private Limited,)
a company incorporated under the)
provisions of the Companies Act, 1956)
and having its registered office at)
70, Nagindas Master Road, Fort,)
Mumbai - 400 023.) Petitioners

Versus

- 1 The State of Maharashtra,)
through the Urban Development)
Department, having its office at)
Mantralya, Mumbai – 400032.)
- 2 The Municipal Corporation of Greater)
Mumbai, a statutory corporation established)
and constituted under the provisions of the)
Mumbai Municipal Corporation Act, 1888)
having its office at Mahanagarpalika)
Building, Mumbai Mahanagarpalika Marg,)
Mumbai - 400 001.) Respondents

WITH
WRIT PETITION (L) NO. 17580 OF 2022

- | | | |
|---|--|-------------------|
| 1 | Basant Vihar Co-operative Housing Society)
Limited,)
A Co-operative Housing Society)
Registered under the provisions of the)
Maharashtra Co-operative Societies Act,)
1960, having its address at)
Plot no. 162/2, and Old Plot No. 364)
And 363 Pt. of SS Scheme, Chembur,)
Mumbai 400 071) | |
| 2 | M/s. Mahavir Enterprises)
A partnership firm duly registered under)
The Provisions of the Indian Partnership)
Act, 1932, having its office at)
5, Saras Baug, S.T. Road, Deonar,)
Mumbai 400 088) | |
| 3 | Mr. Kiran M. Shah)
Adult Inhabitant, Partner of)
M/s. Mahavir Enterprises having his)
Office at 5, Saras Baug, S.T. Road,)
Deonar Mumbai 400 088) | Petitioners |

Versus

- | | |
|---|--|
| 1 | State of Maharashtra,)
Urban Development Department,)
Through the office of the Government)
Pleader, Bombay High Court, (O.S.))
PWD Building, Fort, Mumbai 400 001) |
| 2 | The Collector, Mumbai suburban District)
Through the office of the Government)
Pleader, Bombay High Court, (O.S.))
PWD Building, Fort, Mumbai 400 001) |
| 3 | Municipal Corporation of Greater Mumbai)
Through its Legal Department, Mahapalika)
Bhavan, CST, Mumbai 400 001) |

- 4 Sub Engineer, Building Proposals, E.S.)
 Municipal Corporation of Greater Mumbai)
 Near Raj Legacy, Paper Mill Compound)
 L.B.S. Marg, Vikhroli (West), Mumbai 400 083) Respondents

WITH

WRIT PETITION NO.2038 OF 2016

1. M/s.Neumec Infrastructure LLP)
 a Limited Liability Partnership)
 incorporated under the provisions of)
 the Limited Liability Partnership Act,))
 2008 and having its registered office)
 at 807/808, Hubtown Solaris,)
 B Wing, N.S.Phadke Marg,)
 Opp. Telli Galli, Near Regency Hotel,))
 Andheri East, Mumbai – 400 069)

2. Abhay Chandak,)
 of Mumbai adult Indian Inhabitant,)
 Partner of the Petitioner No.1 having)
 his office 807/808, Hubtwon Solaris,)
 B Wing, N.S.Phadke Marg,)
 Opp. Telli Galli, Near Regency Hotel,))
 Andheri (East), Mumbai – 400 069)

.... Petitioners

V/s.

1. State of Maharashtra,)
 Through its Urban Development)
 Department, Mantralaya, Mumbai)

2. Municipal Corporation of Greater)
 Mumbai,)
 Through the Municipal Commissioner,))
 Head Office, Opp.Azad Maidan,)
 Mumbai – 400 001)

3. Mumbai Housing and Area)
 Development Authority,)
 (MHADA) a local authority having)

its office at Griha Nirman Bhavan,)
 Kalanagar, Bandra (East),)
 Mumbai – 400 051)

..... Respondents

WITH
 WRIT PETITION NO. 1360 OF 2021

D. N. Nagar Mangalmurti Co-operative)
 Housing Society Limited, a Co-operative)
 housing society registered under the,)
 Provisions of the Maharashtra Co-operative,)
 Society Act, 1960 bearing registration)
 no. MUM/MHADDB/W-KP/HSG/(TC)/10787)
 of 2000-2001 dated 05-06-2000 and having)
 its registered office at Building No. 2, D. N.)
 Nagar, Andheri (West), Mumbai- 400 053.)

.... Petitioner

Versus

- 1 Mumbai Housing Area Development Authority)
 A Body corporate established under Section 3)
 of the Maharashtra Housing and Area)
 Development Act 1976, having its address at)
 Grihanirman Bhavan, Kala Nagar, Bandra)
 (East), Mumbai 400 051)
- 2 Vice President & Chief Executive Officer)
 Mumbai Housing Area Development)
 Authority having his address at Grihanirman)
 Bhavan, Kala Nagar, Bandra (East),)
 Mumbai - 400 051.)
- 3 Building Permission Cell, Greater Mumbai)
 Mumbai Housing Area Development)
 Authority, through Executive Engineer)
 (B.P.Cell)an officer of Respondent No.1)
 having his office address at Grihanirman)
 Bhavan, Kala Nagar, Bandra (East),)
 Mumbai - 400 051.)

- 4 PLATINUM AASHIANA LLP,)
a limited liability partnership constituted)
under the provisions of the Limited Liability)
Partnership Act, 2008 having its address at)
801 & 802, Peninsula Heights,)
C. D. Barfiwala Marg, Juhu Lane,)
Andheri- West, Mumbai- 400 058.)
- 5 The State of Maharashtra,)
Through its Urban Development Department)
Mantralaya, Mumbai) Respondents

WITH
WRIT PETITION NO. 138 OF 2022

- 1 Moongipa Realty Pvt. Ltd.)
(Formerly known as Axayraj Buildwell Pvt.)
Ltd. having its corporate office at)
203/204, Raigad Darshan, J.P. Road,)
Opp. Indian Oil Colony, Andheri West,)
Mumbai – 400053.)
- 2 Rajesh B. Agarwal)
Director of Moongipa Realty Pvt. Ltd.)
Adult, Mumbai Indian Inhabitant,)
having his office at 203/204, Raigad Darshan)
J.P. Road, Opp. Indian Oil Colony,)
Andheri West, Mumbai – 400053.)Petitioners

Versus

- 1 Maharashtra Housing & Area Development)
Authority, a Statutory authority,)
Constituted under the provisions of)
Maharashtra Housing & Area Development)
Act, 1976, having its office at)
GrihaNirman Bhavan, Bandra (East),)
Mumbai – 400051.)
- 2 Vice President,)
Maharashtra Housing & Area Development)

- Authority, having its office at)
 Griha Nirman Bhavan, Bandra (East))
 Mumbai – 400051.)
- 3 Building Permission Cell, Greater Mumbai)
 Mumbai Housing Area Development)
 Authority, through the Executive Engineer)
 (B.P. Cell) Greater Mumbai/MHADA)
 having its office at Griha Nirman Bhavan,)
 Kala Nagar, Bandra (East), Mumbai -400051)
- 4 The Principal Secretary,)
 Housing Department,)
 Government of Maharashtra,)
 Mantralaya, Mumbai.)
- 5 Municipal Corporation of Greater Mumbai,)
 Having its Office at Mahapalika Bhavan,)
 Mahapalika Marg, Fort, Mumbai – 400001)
- 6 Assistant Registrar of Co-operative)
 Societies (MHADA), Bandra East,)
 Mumbai – 400051)
- 7 D.N. Nagar Shree Ashtavinayak)
 Co-operative Housing Society Ltd.,)
 having its registered office at)
 THE EXECUTIVE ENGINEER,)
 D.N. Nagar Shree Ashtavinayak CHS Ltd.,)
 D.N. Nagar, Ganesh Chowk, Andheri West,)
 Mumbai – 400053.)
- 8 The State of Maharashtra,)
 through its Urban Development)
 Department, Mantralaya, Mumbai.)Respondents

WITH
 WRIT PETITION (L) NO. 704 OF 2022

1 PLATINUM CORP URBAN DEVELOPERS)
 LLP)
 A limited liability partnership registered)
 under the provisions of the Limited Liability)
 Partnership Act, 2005 having its address at)
 901, Peninsula Heights, Juhu Lane,)
 Andheri (W), Mumbai 400 058)

..... Petitioner

Versus

1 THE MAHARASHTRA HOUSING AREA)
 DEVELOPMENT AUTHORITY,)
 A Body corporate established under)
 Section 3 of the Maharashtra Housing and)
 Area Development Act 1976, having its)
 address at Grihanirman Bhavan, Kala Nagar,)
 Bandra (East), Mumbai 400 051.)

2 THE EXECUTIVE ENGINEER,)
 (BUILDING PROPOSAL),)
 GREATER MUMBAI)
 An officer of Respondent No.1 having)
 his office address at 4th floor,)
 Grihanirman Bhavan, Kala Nagar,)
 Bandra (East), Mumbai 400 051.)

3 D. N. NAGAR ABHINAV SAHYADRI)
 CO-OPERATIVE HOUSING STATE)
 EXECUTIVE ENGINEER, SOCIETY)
 LIMITED)
 A co-operative housing society incorporated)
 under the Maharashtra Co-operative Societies)
 Act, 1960, having its address at building no.14,)
 D.N. Nagar, Andheri West, Mumbai 400 053.)

4 D. N. NAGAR SHREE PADMALAYA)
 CO-OPERATIVE HOUSING SOCIETY)
 LIMITED)
 A co-operative housing society incorporated)

under the Maharashtra Co-operative Societies)
Act, 1960 having its address at office building)
no. 6, D.N. Nagar, Andheri West,)
Mumbai 400 053.)

.... Respondents

WITH
WRIT PETITION (L) NO. 998 OF 2022

SANDHYA KSHITIJ BUILDERS PRIVATE)
LIMITED)
A Company incorporated under the provisions)
of the Companies Act, 1956 and deemed to)
have been registered under the Companies Act,)
2013, having its address at Sanyukta Bunglow,)
Plot No. 153-158, RSC1A, Gorai I, Borivali)
(West), Mumbai – 400 0091)

VERSUS

- 1 THE MAHARASHTRA HOUSING AREA)
AND DEVELOPMENT AUTHORITY)
A Body corporate established under Section)
3 of the Maharashtra Housing and Area)
Development Act 1976, having its address at)
Grihanirman Bhavan, Kala Nagar, Bandra)
(East), Mumbai 400 051.)
- 2 THE EXECUTIVE ENGINEER,)
(BUILDING PROPOSAL),)
GREATER MUMBAI)
An officer of Respondent No.1 having his)
office address at Building Permission Cell,)
Greater Mumbai, MHADA, Bandra (East),)
Mumbai – 400 51.)
- 3 CHARKOP JEEVAN MANGAL)
CO-OPERATIVE HOUSING SOCIETY)
LIMITED)
A co-operative housing society incorporated)
under the Maharashtra Co-operative Societies)
Act, 1960 having its address at Plot No. 233,)

- RDP-5, Sector -3, Charkop, Kandivali (West),
Mumbai – 400 067.)
- 4 CHARKOP PRIYANKA CO-OPERATIVE)
HOUSING SOCIETY LIMITED)
A co-operative housing society incorporated)
under the Maharashtra Co-operative Societies)
Act, 1960 having its address at Plot No. 235,)
RDP-5, Sector-3, Charkop, Kandivali (West,))
Mumbai –4000 067.) ... Respondents

WITH
WRIT PETITION (L) NO. 7180 OF 2022

- 1 KEYSTONE REALTORS PRIVATE)
LIMITED)
A company registered under the provisions)
of the Companies Act, 1956 and deemed to)
have been registered under the Companies)
Act, 2013 having its address at 702, Natraj,)
M.V. Road Junction, Western Express Highway,))
Andheri (East), Mumbai – 400 069)

Versus

- 1 THE MAHARASHTRA HOUSTHE EXECUTIVE
ENGINEERING AREA)
AND DEVELOPMENT AUTHORITY)
A Body corporate established under Section 3)
of the Maharashtra Housing and Area)
Development Act 1976, having its address at)
Grihanirman Bhavan, Kala Nagar, Bandra (East)
Mumbai 400 051.)
- 2 THE EXECUTIVE ENGINEER,)
(BUILDING PROPOSAL), GREATER)
MUMBAI,)
An officer of Respondent No.1 having his)
office address at Grihanirman Bhavan,)
Kala Nagar, Bandra (East), Mumbai 400051.)
- 3 THE MIG CO-OPERATIVE HOUSING)

SOCIETY (Bandra East) Group IV Limited)
 A co-operative housing society incorporated)
 under the Maharashtra Co-operative)
 Societies Act, 1960 having its address at)
 Gandhi Nagar, MIG Colony, Bandra (East),)
 Mumbai- 400 051.)

WITH

WRIT PETITION (L) NO. 2816 OF 2022

1 The Versova Andheri Hardik Cooperative)
 Housing Society Limited)
 Registered under provisions of)
 The Maharashtra Co-Operative Societies Act,
 1960, Having its address at:)
 Plot No. AD-98 CTS No. 1374, B B/37, (pt),)
 Survey No. 120 of Village Versova, SVP)
 Nagar at MHADA Layout, Andheri West,)
 Mumbai – 400 053.)
 Through its Constituted Attorney)
 PSC Realtors Private Limited.)
 Through its Authorized officer/Signatory)
 Vikas Prabhakar Joshi)
 Age 57yrs., Occ: Service)
 Having Regd. Office at: 101, Somnath,)
 Ram Mandir Road, Vile Parle (E))
 Mumbai 400057) Petitioner
 V/s.

1 The Maharashtra Housing Area and)
 Development Authority,)
 A Body Corporate established under)
 Section 3 of the Maharashtra Housing)
 and Area Development Act, 1976)
 Having its Office at:)
 Grihanirman Bhavan, Kala Nagar,)
 Bandra (E), Mumbai – 400 051)

2 The Executive Engineer, (Building Proposal)
 Greater Mumbai)

An Officer of Respondent No. 1)
 Having its office address at:)
 Building Permission Cell,)
 Greater Mumbai, MHADA,)
 Bandra (E), Mumbai – 400 051) Respondents

WITH

WRIT PETITION NO. 2767 OF 2022

1 LEO INFRASTRUCTURE PVT. LTD,)
 A company registered under Indian Companies)
 Act 1956, having its Office at C-101,)
 Chanakya, New Link Road, Mahavir)
 Nagar, Kandivali West, Mumbai- 400 062.) Petitioner

Versus

1 THE MAHARASHTRA HOUSING AREA)
 AND DEVELOPMENT AUTHORITY)
 A Body corporate established under Section)
 3 of the Maharashtra Housing and Area)
 Development Act 1976, having its address at)
 Grihanirman Bhavan, Kala Nagar,)
 Bandra (East), Mumbai 400 051.)

2 THE EXECUTIVE ENGINEER,)
 Building Permission Cell, Greater Mumbai)
 Mumbai Housing Area Development Authority,)
 an officer of Respondent No.1 having his)
 office address at Grihanirman Bhavan,)
 Kala Nagar, Bandra (East), Mumbai - 400 051)

3 GANDHI NAGAR JALKIRAN)
 CO-OPERATIVE HOUSING SOCIETY)
 A Society Registered under Maharashtra)
 Co-operative Societies Act, under its)
 Registration No. BOM/HSG/7767/1982-83)
 having its Office at Building No.67,)
 Gandhi Nagar, Bandra (East) Mumbai 400051.)

4 GANDHI NAGAR SHRI GANESH)
 CO-COPERATIVE HOUSING SOCIETY LTD)

A Society Registered under Maharashtra)
 Co-operative Societies Act, under its)
 Registration No. BOM/[W.H.E] /HSG (OH))
 1325/84/85 having its Office at Building)
 No.68, Gandhi Nagar, Bandra (East))
 Mumbai 400051.) Respondents

WITH

WRIT PETITION (L) NO. 4266 OF 2022

Teachers Colony Cooperative Housing)
 Society Limited)
 Registered A Cooperative Societies Act,)
 1960, Having its address at:)
 Building No. 1 & 2, Survey No.379,)
 CTS no. 609, Village Bandra (E),)
 Taluka Andheri, District-Mumbai)
 Suburban, Mumbai- 400 051.)
 Through its Constituted Attorney)
 Mr. Shrikant P. Paranjape) Petitioner

VERSUS

- 1 The Maharashtra Housing Area and)
 Development Authority,)
 A Body Corporate established under)
 Section 3 of the Maharashtra Housing)
 and Area Development Act, 1976)
 Having its Office at:)
 Grihanirman Bhavan, Kala Nagar,)
 Bandra (E), Mumbai – 400 051)
- 2 The Executive Engineer,)
 (Building Proposal) Greater Mumbai)
 An Officer of Respondent No. 1)
 Having its office address at:)
 Building Permission Cell,)
 Greater Mumbai, MHADA,)
 Bandra (E), Mumbai – 400 051) ... Respondents

WITH

WRIT PETITION NO. 1068 OF 2016

- 1 Dadbhawala Co-operative Housing)
 Society Ltd.,)
 (Regd. No. Bom/W F-N/HSG/(TC)/8097(1998)
 Through its Authorised Representative)
 Mr. Shri. Shantilal Dhanji Dedhia,)
 384, Telang Cross road, Matunga E)
 Mumbai 400 019)
- 2 Shree Falvrudhi Developers,)
 Through Shri Shantilal Dhanji Dedhia)
 A proprietorship firm carrying on business at)
 "Purna Shanti", 174, Nathalal Parekh Marg,)
 Wadala (West), Mumbai 400 031)
- Petitioners

Versus

- 1 State of Maharashtra,)
 Through the Urban Development)
 Department, Government of Maharashtra)
 Though the office of Government Pleader)
 High Court, (O.S.) Bombay,)
 PWD Building, Fort, Mumbai 400 001)
- 2 Municipal Corporation of Greater Mumbai)
 Though its office at, Mahapalika Marg)
 M.G. Road, Fort, Mumbai 400 001)
- 3 Executive Engineer, Building Proposal)
 (City)-II,)
 New Municipal Building No. 355B,)
 Bhagwan Walmiki Chowk,)
 Vidyalankar Marg, Opp Hanuman Mandir)
 Salt Pan road, Antop Hill, Wadala (East))
 Mumbai 400 037)
- Respondents

WITH

WRIT PETITION NO. 2193 OF 2022

- 1 BENE ISRAEL HOME FOR DESTITUTES))
 AND ORPHANS))
 a Charitable Trust registered under the))
 provisions of the Bombay Public Trust Act,))
 1950 (now known as the Maharashtra Public))
 Trust) Act, 1950) bearing Registration No.))
 P.T.R No. D-43 (Mumbai), and having office))
 at C/o C-314, Daffodil, 3rd Floor, Dosti Acres))
 Wadala (East), Mumbai 400 037.))
- 2 LIVESTONE BUILDERS LLP))
 a limited liability partnership firm registered))
 under the provisions of the Limited Liability))
 Partnership Act, 2008 and having its office))
 at 801, Arcadia Building, NCPA Marg,))
 Nariman Point, Mumbai.))
- ... Petitioners

Versus

- 1 STATE OF MAHARASHTRA))
 Through the Principal Secretary,))
 Urban Development Department))
 Mantralaya, Mumbai 400 032.))
- 2 MUNICIPAL CORPORATION OF))
 GREATER MUMBAI))
 a statutory corporation incorporated under))
 the Mumbai Municipal Corporation Act, 1888;))
 having its office at Mahapalika Marg,))
 Mumbai 400 001.))
- 3 MUNICIPAL COMMISSIONER))
 Municipal Corporation of Greater Mumbai))
 having office at Mahapalika Marg,))
 Mumbai 400 001))
- ... Respondents

WITH
WRIT PETITION NO. 1314 OF 2016

- 1 Jayamata Co-operative Housing Society Ltd.)
A Cooperative Housing Society registered)
under the provisions of the Maharashtra)
Cooperative Societies Act, 1960,)
having its Registered office at Paramjyoti,)
Plot No.9, Pestom Sagar Road No.4,)
Tilak Nagar, P.O. Chembur, Mumbai 400 089)
- 2 Shri Sati Builders & Developers Pvt.Ltd.)
A company registered under the provisions)
Of the Companies Act, 1956, having its)
Office at 149/156, Garodia Shopping Centre,)
Garodia Nagar, Ghatkopar (East),)
Mumbai 400 077)
- Petitioners

Versus

- 1 State of Maharashtra,)
Through the Collector/Additional)
Collector's Office,)
Mumbai Suburban District,)
Though office of Government Pleader)
High Court, (O.S.) Bombay)
PWD Building, Fort, Mumbai 400 001)
- 2 Municipal Corporation of Greater)
Mumbai, Having its office,)
Mahapalika Marg, M.G. Road, Fort,)
Mumbai 400 001)
- 3 Executive Engineer,)
Building Proposals, (Easter Suburbs).-1)
Municipal Corporation of Greater Mumbai)
At office of Dy. Chief Engineer (BP))
Easter Suburbs office, Near Raj Legacy,)
Paper Mill Compound, L.B.S. Marg,)
Vikhroli (West), Mumbai 400 083)
- Respondents

WITH
WRIT PETITION (L) NO. 7180 OF 2022

- 1 KEYSTONE REALTORS PRIVATE)
LIMITED)
A company registered under the provisions)
of the Companies Act, 1956 and deemed to)
have been registered under the Companies Act,)
2013 having its address at 702, Natraj,)
M.V. Road Junction, Western Express Highway,)
Andheri (East), Mumbai – 400 069.) Petitioner

Versus

- 1 THE MAHARASHTRA HOUSING AREA)
AND DEVELOPMENT AUTHORITY)
A Body corporate established under Section)
3 of the Maharashtra Housing and Area)
Development Act 1976, having its address at)
Grihanirman Bhavan, Kala Nagar,)
Bandra (East), Mumbai 400 051)
- 2 THE EXECUTIVE ENGINEER,)
(BUILDING PROPOSAL), GREATER MUMBAI,)
An officer of Respondent No.1 having his)
office address at Grihanirman Bhavan,)
Kala Nagar, Bandra (East), Mumbai 400051.)
- 3 THE MIG CO-OPERATIVE HOUSING)
SOCIETY (Bandra East) Group IV Limited)
A co-operative housing society incorporated)
under the Maharashtra Co-operative Societies)
Act, 1960 having its address at Gandhi Nagar,)
MIG Colony, Bandra (East), Mumbai- 400 051.)

WITH
WRIT PETITION NO. 1000 OF 2016

- M/s. Mahavir Enterprises,)
Through their partner Mr. Dhiren M. Gala)
And Mr. Kiran Mulji)
A partnership firm carrying on business at)

5, Saras Baug, S.T. Road, Deonar)
Mumbai 400 088)

.... Petitioners

Versus

1 State of Maharashtra,)
Though the Urban Development Department,)
Government of Maharashtra)
Through the office of the Government)
Pleader, Bombay High Court, (O.S.))
PWD Building, Fort, Mumbai 400 001)

2 Municipal Corporation of Greater Mumbai)
Having office at, Mahapalika Marg,)
M.G. Road, Fort, Mumbai 400 001)

3 Asstt Engineer, Building Proposals, (City))
V, Ex-Engineer Bldg. Proposal (City)-II)
MCGM (Ward F-North),)
New Municipal Bldg. C.S. No. 355-B,)
Bhagwan Walmiki Chowk,)
Vidyalankar Road, Antop Hill,)
Wadala East, Mumbai 400 037)

.... Respondents

WITH

WRIT PETITION NO. 1679 OF 2017

1 The Middle Income Group Co-operative)
Housing Society Group V Limited,)
a society registered under the provisions)
of the Maharashtra Co-operative Societies)
Act, 1960 bearing registration no.)
BOM/HSG/8045/1983 having its registered)
address at Gandhi Nagar, MIG Colony,)
Bandra (East), Mumbai – 400 051)

2 Kalpataru Properties Private Limited)
a company incorporated under the)
provisions of the Companies Act, 1956)

and having its registered office at 101,)
 Kalpataru Synergy Opp. Grand Hyatt)
 Santacruz (East), Mumbai 400-055) Petitioners

Versus

- 1 The State of Maharashtra,)
 through the Urban Development)
 Department, having its office at)
 Mantralaya, Mumbai – 400032.)
- 2 The Municipal Corporation of Greater)
 Mumbai, a statutory corporation established)
 and constituted under the provisions of the)
 Mumbai Municipal Corporation Act, 1888,)
 having its office at Annexe Building,)
 Mahapalika Marg, Mumbai - 400 001.)
- 3 Maharashtra Housing and Area)
 Development Authority,)
 an authority established and constituted)
 under the provisions of the Maharashtra)
 Housing and Area Development Act, 1976,)
 having its office at Griha Nirman)
 Bhavan, Kala Nagar, Bandra (East),)
 Mumbai 400 051.) Respondents

WITH

WRIT PETITION (L) NO. 7581 OF 2022

- 1 PRABHAKAR CO-OPERATIVE HOUSING)
 SOCIETY LIMITED)
 A co-operative housing society registered)
 under the Maharashtra Co-operative Societies)
 Act, 1960 having its address at Akshay)
 Building, Plot no. 15, Krishna Chandra Marg,)
 Bandra Reclamation, Bandra (West),)
 Mumbai 400050.)

- 2 GOVERNMENT OFFICERS SHRAMA)
 VIKAS CO-OPERATIVE HOUSING)
 SOCIETY LIMITED)
 A co-operative housing society registered)
 under the Maharashtra Co-operative Societies)
 Act, 1960 having its address at Safalya Building,)
 Plot no. 14, Krishna Chandra Marg, Bandra)
 Reclamation, Bandra (West), Mumbai 400050.) Petitioners

Versus

- 1 THE MAHARASHTRA HOUSING AREA)
 AND DEVELOPMENT AUTHORITY)
 A Body corporate established under Section)
 3 of the Maharashtra Housing and Area)
 Development Act 1976, having its address at)
 Grihanirman Bhavan, Kala Nagar, Bandra)
 (East), Mumbai 400 051.)
- 2 THE EXECUTIVE ENGINEER,)
 (BUILDING PERMISSION CELL),)
 GREATER MUMBAI)
 An officer of Respondent No.1 having his)
 office address at GrihanirmanBhavan,)
 Kala Nagar, Bandra (East), Mumbai 400 051)
- 3 FLOWLINE DEVELOPERS PRIVATE LIMITED))
 A Company incorporated under the provisions))
 of the Companies Act, 2013 having its))
 registered office at Ground Floor,))
 Sukh Shanti, Plot No-65, Opp. PNB, 8th Road,))
 Juhu Scheme, Vile Parle (West),))
 Mumbai 400049.) Respondents

WITH
 WRIT PETITION (L) NO. 8126 OF 2022

- 1 Adarsh Nagar Shree Adarsh Co-)
 operative Housing Society Limited a)
 society registered under the provisions)

- of Maharashtra Co-operative Housing)
 Society Act 1960 situate on CTS No.)
 1(part), Village Oshiwara, Taluka)
 Andheri, District Mumbai suburban)
 District having its address at 671 Adarsh)
 Nagar Oshiwara, New Link Road,)
 Jogeshwari (West), Mumbai 400 102.)
- 2 M/s. Sunbeam Hightech Developers)
 Private Limited, 1, Paras Building,)
 ground floor, BonBon Lane, Andheri)
 (West), Mumbai 400 058) ... Petitioners
- Versus
- 1 Mumbai housing Area development)
 authority, a body corporate established)
 under section 3 of the Maharashtra)
 Housing and area development Act,)
 1976, having its address at Grihnirman)
 Bhavan, Kala Nagar, Bandra (East),)
 Mumbai 400 051)
- 2 Vice president and chief executive)
 officer Mumbai Housing Area)
 Development authority having his addrss)
 at Grihnirman Bhavan, Kala Nagar,)
 Bandra (East), Mumbai 400 051)
- 3 Building Permission Cell, Greater)
 Mumbai, Mumbai Housing Area)
 Development Authority, through)
 executive engineer (B. P. Cell) Greater)
 Mumbai / MHADA having its office at)
 Grihanirman Bhavan, Kala Nagar,)
 Bandra (East), Mumbai 400 051)
- 4 The State of Maharashtra through the)
 secretary, urban development)
 department, Mantralaya Mumbai 400)
 032) ... Respondents

WITH
 WRIT PETITION (L) NO. 8142 OF 2022

OSHIWARA SATPUDA CO-OPERATIVE)
HOUSING SOCIETY LIMITED)
A co-operative housing society registered)
under the Maharashtra Co-operative Societies)
Act, 1960 having its address at Building No.3,)
Oshiwara, New Link Road, Jogeshwari)
(West), Mumbai – 400 102.)...PETITIONER

VERSUS

- 1 THE MAHARASHTRA HOUSING)
AREA AND DEVELOPMENT AUTHORITY)
A Body corporate established under Section 3)
of the Maharashtra Housing and Area)
Development Act 1976, having its address at)
Grihanirman Bhavan, Kala Nagar, Bandra)
(East), Mumbai 400 051.)
- 2 THE EXECUTIVE ENGINEER,)
(BUILDING PERMISSION CELL),)
GREATER MUMBAI)
An officer of Respondent No.1 having his)
office address at Grihanirman Bhavan,)
Kala Nagar, Bandra (East), Mumbai 400 051)
- 3 DEV LAND & HOUSING PRIVATE LIMITED))
A Company incorporated under the provisions))
of the Companies Act, 1956 and validly)
existing under the provisions of the)
Companies Act, 2013 having its registered)
office at 10th Floor, Dev Plaza, S.V. Road,)
Andheri (West), Mumbai – 400 058.)Respondents

WITH

WRIT PETITION (L) NO. 8279 OF 2022

LOTUS BUILDERS AND DEVELOPERS)
A partnership firm, registered under the)
provisions of the Indian Partnership Act, 1932)

having its principal place of business at 8,)
 ground Floor, Abhishek Building, Behind Kuber)
 Complex, opp. Laxmi Industrial Estate, New)
 Link Road, Andheri (West), Mumbai – 400053.) ...Petitioner

Versus

- 1 THE MAHARASHTRA HOUSING AREA)
 AND DEVELOPMENT AUTHORITY)
 A Body corporate established under)
 Section 3 of the Maharashtra Housing and)
 Area Development Act 1976, having its)
 address at Grihanirman Bhavan, Kala)
 Nagar, Bandra (East), Mumbai 400 051.)
- 2 THE EXECUTIVE ENGINEER)
 Building Permission Cell, Greater Mumbai)
 Mumbai Housing Area Development)
 Authority, an officer of Respondent No.1)
 having his office address at Grihanirman)
 Bhavan, Kala Nagar, Bandra (East))
 Mumbai - 400 051.)
- 3 AZAD NAGAR SATKAR CO-)
 OPERATIVE HOUSING SOCIETY)
 LIMITED, A Society Registered under)
 Maharashtra Co-operative Societies Act)
 under its Registration No. MUM/MHADB/)
 HSG/(TC)/12260 dated 2004-2005 and)
 having its registered office)
 at 47, Azad Nagar No.3, off Veera Desai)
 Road, Andheri West, Mumbai)
 Maharashtra - 400 053) ...Respondents

WITH

WRIT PETITION (L) NO. 8447 OF 2022

SIDDHARTH NAGAR CHAITANYA)
 CO-OPERATIVE HOUSING SOCIETY)
 LIMITED)

A co-operative housing society incorporated)
 under the Maharashtra Co-operative Societies Act,))
 1960 having its address at Building No.3,)
 Goregaon (West), Mumbai-400 104.) Petitioner

VERSUS

- 1 THE MAHARASHTRA HOUSING AREA)
 AND DEVELOPMENT AUTHORITY)
 A Body corporate established under Section)
 3 of the Maharashtra Housing and Area)
 Development Act 1976, having its address at)
 Grihanirman Bhavan, Kala Nagar, Bandra)
 (East), Mumbai 400 051.)
- 2 THE EXECUTIVE ENGINEER,)
 (BUILDING PROPOSAL),)
 GREATER MUMBAI)
 An officer of Respondent No.1 having his)
 office address at Building Permission Cell,)
 Greater Mumbai, MHADA, Bandra (East),)
 Mumbai – 400 051.)
- 3 M/S. MUMBAI SHELTER HOUSING)
 DEVELOPMENT PVT LTD)
 A Private limited company registered and)
 incorporated under the provisions of the)
 Companies Act 1956 having its address at 8)
 Andheri Ekta, Off Four Bungalows,)
 Off Lokhandwala Complex, Road,)
 Andheri (West), Mumbai- 400 053) Respondents

WITH
 WRIT PETITION (L) NO. 8722 OF 2022

- 1 FAIRYLAND CO-OPERATIVE HOUSING)
 SOCIETY LIMITED)
 A co-operative housing society deemed to be)
 incorporated under the Maharashtra)
 Co-operative Societies Act, 1960 having its)
 address at Plot No. 9-A, N. S. Road No. 10,)

JVPD Scheme, Vile Parle (West),)
Mumbai 400 049.) Petitioner

Versus

- 1 THE MAHARASHTRA HOUSING AREA)
AND DEVELOPMENT AUTHORITY)
A Body corporate established under Section)
3 of the Maharashtra Housing and Area)
Development Act 1976, having its address at)
Grihanirman Bhavan, Kala Nagar, Bandra)
(East), Mumbai 400 051.)
- 2 THE EXECUTIVE ENGINEER,)
(BUILDING PERMISSION CELL),)
GREATER MUMBAI)
An officer of Respondent No.1 having his)
office address at Grihanirman Bhavan,)
Kala Nagar, Bandra (East), Mumbai 400 051)
- 3 AJMERA REALTY & INFRA INDIA LIMITED))
A company incorporated under the provisions))
of the Companies Act, 1956 and validly)
existing under the provisions of the)
Companies Act, 2013 having its registered)
office at Citi Mall, Link Road, Andheri)
(West), Mumbai 400053.) Respondents

WITH
WRIT PETITION (L) NO. 8731 OF 2022

- 1 SHREE MAHAVIR ESTATE GREEN ACRES))
A partnership firm registered under the)
provisions of the Indian Partnership Act, 1932,))
and having its principal place of business at)
Aditya, 'A' Wing, Podium Office,)
Gulmohar Cross Road No. 7, Juhu Vile Parle))
Development Scheme, Mumbai 400049.)
- 2 MR. SNEHAL M PATEL)
Adult, of Mumbai, Indian Inhabitant,)

a partner of the Petitioner No. 1, having his)
 address at Aditya, 'A' Wing, Podium Office,))
 Gulmohar Cross Road No. 7, Juhu Vile Parle))
 Development Scheme, Mumbai 400049.) ...PETITIONERS

VERSUS

- 1 THE MAHARASHTRA HOUSING AREA)
 AND DEVELOPMENT AUTHORITY)
 A Body corporate established under Section)
 3 of the Maharashtra Housing and Area)
 Development Act 1976, having its address at)
 Grihanirman Bhavan, Kala Nagar, Bandra)
 (East), Mumbai 400 051.)
- 2 THE EXECUTIVE ENGINEER,)
 (BUILDING PERMISSION CELL),)
 GREATER MUMBAI)
 An officer of Respondent No.1 having his)
 office address at Grihanirman Bhavan,)
 Kala Nagar, Bandra (East), Mumbai 400 051)
- 3 Juhu Karmyog Co-operative Housing Society))
 Limited,)
 A co-operative society registered under)
 Maharashtra Co-operative Societies Act, 1960))
 bearing registration no. BOM/HSG/7889 of)
 1982 dated 31st July, 1982 and having)
 its registered office at 15AB/257,)
 Green Acres, Vidyanidhi Marg, CTS 26A(pt)))
 JVPD Scheme, Mumbai – 400049.)...RESPONDENTS

WITH
 WRIT PETITION (L) NO. 8733 OF 2022

- 1 DEM ESTATES LLP)
 A limited liability partnership incorporated)
 under the provisions of the Limited Liability)
 Partnership Act, 2008, and having its)
 registered office at B-302, Gokul Regency 1)
 CHSL, Thakur Complex Highway,)

Near Sai Dham Temple, Kandivali (East),)
Mumbai 400101.) Petitioner

VERSUS

- 1 THE MAHARASHTRA HOUSING AREA))
AND DEVELOPMENT AUTHORITY))
A Body corporate established under Section))
3 of the Maharashtra Housing and Area))
Development Act 1976, having its address at))
Grihanirman Bhavan, Kala Nagar, Bandra))
(East), Mumbai 400 051.))
- 2 THE EXECUTIVE ENGINEER,))
(BUILDING PERMISSION CELL),))
GREATER MUMBAI))
An officer of Respondent No.1 having his))
office address at Grihanirman Bhavan,))
Kala Nagar, Bandra (East), Mumbai 400 051))
- 3 CHARKOP ANAND CO-OPERATIVE))
HOUSING SOCIETY LIMITED,))
A co-operative society registered under))
Maharashtra Co-operative Societies Act, 1960,))
bearing registration no. BOM(W-R)/HSG))
(T-C) 2437/86-87 and having its registered))
office at RDP-7/158, Charkop, Kandivali))
(West), Mumbai 400067) ...RESPONDENTS

WITH
WRIT PETITION NO. 822 OF 2017

- 1 NEW MONALISA CO-OPERATIVE))
HOUSING SOCIETY LIMITED,))
a society registered under Maharashtra))
Cooperative Societies Act,1960))
(MAH.XXIV of 1961) having address at))
New Monalisa Co-operative Housing Society Ltd,))
Arya Vidya Mandir Road, Survey No.287,))

- C.T.S. No 21(part), Sub Plot No.14 of Plot No.5,
 J.V.P.D. Scheme, Vile Parle (West),)
 Mumbai – 400 049.)
- 2 LAMPLIGHT CO-OPERATIVE HOUSING)
 SOCIETY LIMITED,)
 a society registered under Maharashtra)
 Cooperative Societies Act, 1960)
 (MAH.XXIV of 1961) having address at)
 New Monalisa Co-operative Housing Society)
 Ltd, Arya Vidya Mandir Road, Survey No.287,))
 C.T.S. No 21(part), Sub Plot No. 14 of Plot No.5/6,))
 J.V.P.D. Scheme, Vile Parle (West),)
 Mumbai – 400 049.)
- 3 PARLE SILVER LIGHT CO-OPERATIVE)
 HOUSING SOCIETY LIMITED,)
 a society registered under Maharashtra Cooperative)
 Societies Act, 1960 (MAH.XXIV of 1961))
 having address at : Parle Silver Light)
 Co-operative Housing Society Ltd,)
 Survey No.287, bearing CTS No.21(Part),)
 Sub-Plot No.14 of Plot No.5/5, 9th N.S. Road)
 Extn., J.V.P.D. Scheme, Vile Parle (West),)
 Mumbai – 400 049.)
- 4 M/s. SHREE MAHAVIR ESTATES,)
 a partnership firm registered under the)
 Indian Partnership Act, 1932, having its)
 registered office at 14A Paper Box Estate,)

off Mahakali Caves Road, Andheri (East),)
 Mumbai 400 093 & having its Administrative)
 office at Aditya A – Wing, Podium, 1st Floor,)
 Samarth Ramdas Marg, Gulmohar)
 Cross Road No 7, J.V.P.D. Scheme,)
 Vile Parle (West), Mumbai - 400 049.)Petitioners

Versus

- 1 The State of Maharashtra,)
 through The Urban Development Department,))
 having its office at Mantralya, Mumbai – 400032)
 through Government Pleader(O.S), High Court,)
 Mumbai – 400 032.)
- 2 The Municipal Corporation of Greater)
 Mumbai,)
 a statutory corporation established and)
 constituted under the provisions of the)
 Mumbai Municipal Corporation Act, 1888)
 having its office at Mahanagarpalika Building,))
 Mumbai Mahanagarpalika Marg,)
 Mumbai - 400 001.)
- 3 Maharashtra Housing and Area Development)
 Authority,)
 an authority established and constituted)
 under the provisions of the Maharashtra)
 Housing and Area Development Act, 1976,)
 having its office at Legal Department,)
 Griha Nirman Bhavan, 4th Floor, MHADA)
 Bandra (East), Mumbai 400 051.) Respondents

WITH

WRIT PETITION (L) NO. 9667 OF 2022

- 1 GAGANGIRI CONSTRUCTION)
 A partnership Firm having its address at)
 7/321 Ninad CHSL, Building No.7,Kher Nagar,)
 Bandra (East), Mumbai- 400 051) Petitioner

Versus

- 1 THE MAHARASHTRA HOUSING AREA)
AND DEVELOPMENT AUTHORITY)
A Body corporate established under Section 3)
of the Maharashtra Housing and Area Development)
Act 1976, having its address at Grihanirman)
Bhavan, Kala Nagar, Bandra (East),)
Mumbai 400 051.)
- 2 THE EXECUTIVE ENGINEER,)
(BUILDING PROPOSAL), GREATER MUMBAI)
An officer of Respondent No.1 having his)
office address at Building Permission Cell,)
Greater Mumbai, MHADA, Bandra (East),)
Mumbai – 400 051.)
- 3 NEHRU NAGAR SARITA VIDYA MAHAL)
CHS LIMITED)
A co-operative housing society incorporated)
under the Maharashtra Co-operative Societies Act,)
1960 having its address at Building 138,)
Nehru Nagar, Kurla (East), Mumbai – 400 024) Respondents

WITH

WRIT PETITION (L) NO. 9673 OF 2022

- 1 Bleu Noir Infrastructure Development)
Private Limited,)
a company incorporated under the provisions)
of the Companies Act, 1956, having its)
registered office at 2nd Floor, Dev Plaza,)
Opp. Andheri Fire Station, S. V. Road,)
Andheri (West), Mumbai 400 048.)
- 2 Rushabh. P. Satra,)
Director of Petitioner No. 1, having its)
registered office at 2nd Floor, Dev Plaza,)
Opp. Andheri Fire Station, S. V. Road,)
Andheri (West), Mumbai - 400 048.) Petitioners

Versus

- 1 State of Maharashtra through)
i) Principal Secretary, Housing Department,)
Government of Maharashtra, Mantralaya,)
Mumbai 400032.)
ii) Principal Secretary, Urban Development)
Department, Mantralaya, Mumbai – 400032.)
- 2 Maharashtra Housing & Development Authority,)
a Statutory Authority constituted under the)
provisions of Maharashtra Housing & Area)
Development Act, 1976, having its office at)
Griha Nirman Bhavan, Kala Nagar, Bandra)
(East), Mumbai- 400051.)
- 3 Vice President,)
Maharashtra Housing & Development Authority,)
having its office at Griha Nirman Bhavan,)
Kala Nagar, Bandra (East), Mumbai – 400051.)
- 4 Building Permission Cell, Greater Mumbai,)
Mumbai Housing Area & Development Authority,)
through the Executive Engineer (B.P. Cell))
Greater Mumbai/ MHADA, having its office)
at Griha Nirman Bhavan, Kala Nagar,)
Bandra (East), Mumbai – 400051.)
- 5 Municipal Corporation of Greater Mumbai,)
having its office at Mahapalika Bhavan,)
Mahapalika Marg, Fort, Mumbai – 400001.)
- 6 Assistant Registrar of Co- operative)
Societies (MHADA), Bandra (East),)
Mumbai - 400051.)
- 7 Lenyadri Co-operative Housing Society)
Limited,)
having its registered office at Building No. 9,)
Shastri Nagar, Road No. 2, Goregaon (West),)
Mumbai – 400004.)

... Respondents

WITH
WRIT PETITION (L) NO. 9685 OF 2022

- 1 M/S. GAGANGIRI DEVELOPERS)
(Formerly known as ‘Raghav Raj Builders &)
Developers’), A partnership Firm having its)
address at 7/321, Ninad CHSL, Building No.7,)
Kher Nagar, Bandra (East), Mumbai- 400 051) Petitioner

Versus

- 1 THE MAHARASHTRA HOUSING AREA)
AND DEVELOPMENT AUTHORITY)
A Body corporate established under Section 3)
of the Maharashtra Housing and Area Development)
Act 1976, having its address at Grihanirman)
Bhavan, Kala Nagar, Bandra (East),)
Mumbai 400 051.)
- 2 THE EXECUTIVE ENGINEER,)
(BUILDING PROPOSAL), MHADA)
An officer of Respondent No.1 having his)
office address at Building Permission Cell,)
MHADA, Bandra (East), Mumbai – 400 051.)
- 3 NEHRU NAGAR KEDAR DARSHAN)
CO-OPERATIVE HOUSING SOCIETY LIMITED))
A co-operative housing society incorporated)
under the Maharashtra Co-operative Societies)
Act, 1960 having its address at Building 45,)
Nehru Nagar, Kurla (East), Mumbai – 400 024)...RESPONDENTS

WITH
WRIT PETITION NO. 920 OF 2017

- 1 JUHU SHANTIVAN CO-OPERATIVE)
HOUSING SOCIETY LIMITED,)
a society registered under Maharashtra)
Cooperative Societies Act, 1960)
(MAH.XXIV of 1961) under Registration)
No. BOM/HSG/8002 dated 30th April 1983)

having its address at Plot No.M, Building)
 No. 13 (MIG), Gulmohar Cross Road No. 6,)
 J.V.P.D. Scheme, Vile Parle (West),)
 Mumbai – 400 049.)

- 2 M/s. SHREE MAHAVIR PROPERTIES,)
 a partnership firm registered under the)
 Indian Partnership Act, 1932, having its)
 registered office at 14A Paper Box Estate,)
 off Mahakali Caves Road, Andheri (East),)
 Mumbai 400 093 and having its Administrative)
 office at Aditya A - Wing, Podium, 1st Floor,)
 Samarth Ramdas Marg, Gulmohar Cross Road)
 No 7, J.V.P.D. Scheme, Vile Parle (West),)
 Mumbai - 400 049.)Petitioners

Versus

- 1 The State of Maharashtra,)
 through The Urban Development Department,))
 having its office at Mantralya, Mumbai – 400032))
 through Government Pleader(O.S), High Court,))
 Mumbai – 400 032.))
- 2 The Municipal Corporation of Greater Mumbai,))
 a statutory corporation established and constituted)
 under the provisions of the Mumbai Municipal)
 Corporation Act, 1888 having its office at))
 Mahanagarpalika Building,))
 Mumbai Mahanagarpalika Marg,))
 Mumbai - 400 001.))
- 3 Maharashtra Housing and Area Development)
 Authority, an authority established and)
 constituted under the provisions of the)
 Maharashtra Housing and Area Development)

Act, 1976, having its office at Legal Department,)
 Griha Nirman Bhavan, 4th Floor,)
 MHADA Bandra (East), Mumbai 400 051.) Respondents

WITH
 WRIT PETITION NO. 605 OF 2017

- 1 Majaswadi Sarvodaya Nagar)
 Co-operative Housing Society)
 Union Limited)
 a society registered under the provisions)
 of the Maharashtra Co-operative Societies)
 Act, 1960 bearing registration no.)
 MUM/MHADDB/HSG/TC/11665)
 and having its registered address at)
 72/513 MHB Colony, Sarvodaya Nagar)
 Majaswadi CTS No.160A/1, 162, 163,)
 165 and 170/C, Village Majas,)
 Jogeshwari (E), Mumbai – 400060)
- 2 Acme Realities Pvt. Ltd)
 a company incorporated under the)
 provisions of the Companies Act, 1956)
 and having its registered office at)
 Building No.10, 5th floor, Solitare Corporate Park,)
 Guru Hargovindji Road, Andheri (East),)
 Chakala, Mumbai – 400093) Petitioners

Versus

- 1 The State of Maharashtra,)
 through the Urban Development Department,)
 having its office at Mantralaya,)
 Mumbai – 400032.)
- 2 The Municipal Corporation of Greater)
 Mumbai, a statutory corporation established))
 and constituted under the provisions of the)
 Mumbai Municipal Corporation Act, 1888,)
 having its office at Annexe Building,)

- Mahapalika Marg, Mumbai - 400 001.)
- 3 Maharashtra Housing and Area)
 Development Authority,)
 an authority established and constituted)
 under the provisions of the Maharashtra)
 Housing and Area Development Act, 1976,)
 having its office at Griha Nirman)
 Bhavan, Kala Nagar, Bandra (East),)
 Mumbai 400 051.) Respondents

WITH
 WRIT PETITION NO. 1226 OF 2016

M/s. Nayan Builders,)
 A firm registered under the Indian Partnership)
 Act, 1932, having their principal office at)
 Meghdoot, Vallabh Baug Lane,)
 Ghatkopar (East) Mumbai 400 077) Petitioner

Versus

- 1 State of Maharashtra,)
 Urban Development Department,)
 Through the office of the Government)
 Pleader, Bombay High Court, (O.S.))
 PWD Building, Fort, Mumbai 400 001)
- 2 Municipal Corporation of Greater Mumbai)
 Having office at, Mahapalika Marg,)
 M.G. Road, fort, Mumbai 400 001)
- 3 Ex. Engineer, Building Proposals, (City-II))
 Asstt-Engineer Bldg. Proposal (City)-V)
 New Municipal Bldg. C.S. No. 355-B)
 Bhagwan Walmiki Chowk,)
 Vidyalkar Road, Opp Hanuman Mandir,)
 Salt Pan Road, Antop Hill,)
 Wadala East, Mumbai 400 037) ... Respondents

WITH

WRIT PETITION NO. 544 OF 2018

D. N. Nagar Tirupati Co-operative Housing)
 Society Limited,)
 a Co-operative housing society registered)
 under the Provisions of the Maharashtra)
 Co-operative Society Act, 1960 having its)
 registered Address at Building No.7,)
 D. N. Nagar, Andheri (West),)
 Mumbai – 400 053.)Petitioner

Versus

- 1 The Municipal Corporation of Greater)
 Mumbai, a Statutory Corporation Constituted)
 under the provisions of the Mumbai Municipal)
 Corporation Act, 1888 having its Address at)
 Mahapalika Marg, Mumbai 400 001.)
- 2 The Municipal Commissioner)
 having his office at 1st floor, Municipal Head)
 Office Extension Building, Mahapalika)
 Marg, Mumbai-400 001.)
- 3 Mumbai Housing Area Development Authority)
 A Body corporate established under Section 3)
 of the Maharashtra Housing and Area)
 Development Act 1976, having its address at)
 Grihanirman Bhavan, Kala Nagar, Bandra)
 (East), Mumbai 400 051)
- 4 Tirupati Gruhpravesh LLP,)
 a limited liability partnership constituted)
 under the provisions of the Limited Liability)
 Partnership Act, 2008 having its address at)
 1st Floor, Premsons Shopping Centre,)
 Station Road, Jogeshwari (Esat),)
 Mumbai 400 060.) ...Respondents

WITH
 WRIT PETITION NO. 311 OF 2018

D. N. Nagar Shivkrupa Co-operative)
 Housing Society Limited, a Co-operative)
 housing society registered under the,)
 Provisions of the Maharashtra Co-operative,)
 Society Act, 1960 having its registered,)
 Address at Building No.4, D. N. Nagar)
 Andheri (West), Mumbai – 400 053.) .. Petitioner

Versus

- 1 The Municipal Corporation of Greater of)
 Mumbai, a Statutory Corporation Constituted)
 under the provisions of the Mumbai Municipal)
 Corporation Act, 1888 having its Address at)
 Mahapalika Marg, Mumbai 400 001.)
- 2 The Municipal Commissioner having)
 his office at 1st floor, Municipal Head)
 Office Extension Building, Mahapalika Marg,)
 Mumbai-400 001.)
- 3 Mumbai Housing Area Development Authority)
 A Body corporate established under section 3)
 of the Maharashtra Housing and Area)
 Development Act 1976, having its address at)
 Grihanirman Bhavan, Kala Nagar,)
 Bandra (East), Mumbai 400 051)
- 4 Shivkrupa Gruhpravesh LLP,)
 a limited liability partnership constituted)
 under the provisions of the Limited Liability)
 Partnership Act, 2008 having its address at)
 1st Floor, Premsons Shopping Centre,)
 Station Road, Jogeshwari (Esat),)
 Mumbai 400 060.) ... Respondents

WITH
 WRIT PETITION NO.114 OF 2018

D. N. Nagar Akshay Co-operative)

Housing Society Limited,a Co-operative)
 housing society registered under the)
 Provisions of the Maharashtra Co-operative,)
 Society Act, 1960 having its registered,)
 Address at Building No.1, D. N. Nagar)
 Andheri (West), Mumbai – 400 053.)

.. Petitioner

Versus

- 1 The Municipal Corporation of Greater)
 of Mumbai, a Statutory Corporation)
 Constituted under the provisions)
 of the Mumbai Municipal)
 Corporation Act, 1888 having its)
 Address at Mahapalika Marg,)
 Mumbai 400 001.)
- 2 The Municipal Commissioner having)
 his office at 1st floor, Municipal Head)
 Office Extension Building, Mahapalika Marg,))
 Mumbai-400 001.)
- 3 Mumbai Housing Area Development Authority))
 A Body corporate established under)
 Section 3 of the Maharashtra Housing)
 and Area Development Act 1976,)
 having its address at Grihanirman)
 Bhavan, Kala Nagar, Bandra (East),)
 Mumbai 400 051)
- 4 Akshay Gruhpravesh LLP,)
 a limited liability partnership constituted)
 under the provisions of the Limited Liability)
 Partnership Act, 2008 having its address at)
 1st Floor, Premsons Shopping Centre,)
 Station Road, Jogeshwari (Esat),)
 Mumbai 400 060.)

...Respondents

WITH
 WRIT PETITION NO. 3381 OF 2018

Epitome Residency Pvt.Ltd.,)
 A company incorporated under the provisions)
 Of the companies Act, 1956 and having its)
 Registered office at ONE BKC,)
 A Wing 1401, Plot No. C-66, G-Block)
 Bandra Kurla Complex, Bandra (East),)
 Mumbai 400 051)

..... Petitioner

Versus

1 State of Maharashtra,)
 Urban Development Department,)
 Government of Maharashtra,)
 Though the office of Government Pleader)
 High Court, (O.S.) Bombay)
 PWD Building, Fort, Mumbai 400 001)

2 Municipal Corporation of Greater Mumbai)
 Though the Brihanmumbai Electric Supply)
 And Transport Undertaking,)
 Legal Department, Mahapalika Marg,)
 M.G. Road, Fort, Mumbai 400 001)

3 Executive Engineer, Building Proposal (WS),)
 P/S, Municipal Corporation of Greater)
 Mumbai, CTS No.746, Village Pahadi,)
 Swami Vivekanand Road, Near Goregaon)
 Sky Walk, Jawahar Nagar, Goregaon)
 (West) Mumbai 400 104)

4 Brihan Mumbai Electric Supply & Transport)
 Undertaking, having its head office)
 At BEST Bhavan, Best Marg,)
 Colaba, Mumbai 400 001)..... Respondents

WITH
 WRIT PETITION NO. 1705 OF 2018

M/s. Radius & Deserve Builders LLP,)
 (formerly known as M/s. Wadhwa & Deserve)

Builders LLP) ONE BKC, A-1401, 14th Floor,))
 Plot No. C-66, G-Block, Bandra Kurla Complex))
 Bandra (East), Mumbai 400 051) Petitioner

Versus

- 1 State of Maharashtra,)
 Through The Collector Government)
 Of Maharashtra,)
 Through the office of the Government)
 Pleader, Bombay High Court, (O.S.))
 PWD Building, Fort, Mumbai 400 001)
- 2 Slum Rehabilitation Authority,)
 5th floor, Griha Nirman Bhavan,)
 Bandra (East), Mumbai 400 051,)
- 3 Executive Engineer,)
 Slum Rehabilitation Authority,)
 Anand kanekar Marg,)
 Bandra (East), Mumbai 400 051)..... Respondents

WITH
 WRIT PETITION NO. 1937 OF 2016

S.D. Corporation Pvt.Ltd.)
 A company incorporated and registered)
 Under the provisions of the Companies)
 Act, 1956 having its registered office)
 At 70, Nagindas Master Road,)
 Fort, Mumbai 400 023) Petitioner

Versus

- 1 State of Maharashtra,)
 Though the Collector,)
 Government of Maharashtra,)
 Through the office of Government)
 Pleader, Bombay High Court, (O.S.))
 PWD Building, Fort, Mumbai 400 001)

- 2 Slum Rehabilitation Authority,)
5th floor, Griha Nirman Bhavan)
Bandra (E), Mumbai 400 051)
- 3 Executive Engineer,)
Slum Rehabilitation Authority,)
Anant Kanekar Marg, Bandra (E), Mumbai)..... Respondents

WITH

WRIT PETITION (L) NO. 12206 OF 2022

- 1 Gorai Shri Shiv Parvati Co-operative Housing)
Society Limited,)
A society registered under the provisions of)
Maharashtra Co-operative Societies Act 1960)
situate on Plot no. 8, RSC-3 Maharashtra)
Housing Area Development Authority layout)
Gorai -3 Borivali (West), Mumbai 400 092)
- 2 M/s. Shree Krishna developer corporation,))
A registered partnership firm having its office)
at Narayan printing, 135, Ram Mandir Road,)
Oshiwara, Jogeshwari (West), Mumbai 400 104)... Petitioners

Versus

- 1 Mumbai Housing Area Development)
Authority,)
A body corporate established under section 3)
of the Maharashtra Housing and area)
Development Act, 1976, having its address at)
Grihnirman Bhavan, Kala Nagar, Bandra)
(East), Mumbai 400 051)
- 2 Vice president and Chief Executive Officer)
Mumbai Housing Area Development Authority)
having his address at Grihnirman Bhavan,)
Kala Nagar, Bandra (East), Mumbai 400 051)

- 3 Building Permission Cell, Greater Mumbai,) Mumbai Housing Area Development Authority,) through executive engineer (B .P Cell)) Greater Mumbai / MHADA having its office) at Grihanirman Bhavan, Kala Nagar, Bandra) (East), Mumbai 400 051)
- 4 The State of Maharashtra through) the Secretary, Urban Development Department,) Mantralaya Mumbai 400 032)... Respondents

WITH
WRIT PETITION (L) NO. 12212 OF 2022

- 1 Gorai Shri Shiv Shankar Co-operative) Housing Society Limited,) A society registered under the provisions of) Maharashtra Co-operative Societies Act 1960) situate on Plot no. 7, RSC-3 Maharashtra) Housing Area Development Authority) layout Gorai -3 Borivali (West),) Mumbai 400 092)
- 2 M/s. Shree Krishna developer corporation,) a registered partnership firm having its office) at Narayan printing, 135, Ram Mandir Road,) Oshiwara, Jogeshwari (West), Mumbai 400 104)... Petitioners

Versus

- 1 Mumbai Housing Area Development Authority,) A body corporate established under section 3) of the Maharashtra Housing and Area) Development Act, 1976, having its address at) Grihnirman Bhavan, Kala Nagar, Bandra) (East), Mumbai 400 051)
- 2 Vice president and Chief Executive Officer) Mumbai Housing Area Development Authority) having his address at Grihnirman Bhavan,) Kala Nagar, Bandra (East), Mumbai 400 051)

- 3 Building Permission Cell, Greater Mumbai,)
 Mumbai Housing Area Development Authority,)
 through executive engineer (B .P Cell))
 Greater Mumbai / MHADA having its)
 Office at Grihanirman Bhavan, Kala Nagar,)
 Bandra (East), Mumbai 400 051)
- 4 The State of Maharashtra through)
 the secretary, Urban Development)
 Department, Mantralaya Mumbai 400 032) ... Respondents

WITH
 WRIT PETITION (L) NO. 12361 OF 2022

- 1 M/S. V. L. SAVLI DEVELOPERS LLP)
 A registered Limited Liability Partnership)
 having its registered address at Shop No.2,)
 'C' Wing, Stella Residency, Kannamwar)
 Nagar I, Vikhroli (East), Mumbai – 400 083) ... Petitioner

Versus

- 1 THE MAHARASHTRA HOUSING AREA)
 AND DEVELOPMENT AUTHORITY)
 A Body corporate established under Section 3)
 of the Maharashtra Housing and Area)
 Development Act 1976, having its address at)
 Grihanirman Bhavan, Kala Nagar, Bandra)
 (East), Mumbai 400 051.)
- 2 THE EXECUTIVE ENGINEER,)
 (BUILDING PROPOSAL), MHADA)
 An officer of Respondent No.1 having his)
 office address at Building Permission Cell,)
 MHADA, Bandra (East), Mumbai – 400 051.)
- 3 KANNAMWAR NAGAR SAVLI)
 CO-OPERATIVE HOUSING SOCIETY LIMITED)
 A Co-operative Housing Society incorporated)
 under the Maharashtra Co-operative)

Societies Act, 1960 having its address at)
 Building Nos. 161, 162, 163 & 156,)
 Kannamwar Nagar – 01, Vikhroli (East),)
 Mumbai – 400 083)...RESPONDENTS

WITH
 WRIT PETITION NO. 2488 OF 2022

- 1 D. N. Nagar Shivneri Co-operative Housing)
 Society Limited, a society registered under)
 the Maharashtra Co-operative Societies Act,)
 1960, having its address at Building No.5,)
 D. N. Nagar, Andheri (west), Mumbai-400 053)
- 2 Ms. Neena Pardesi)
 Committee Member of D. N. Nagar Shivneri)
 Co-operative Housing Ltd., Adult, Mumbai)
 Indian Inhabitant, residing at Building No.5,)
 Ganesh Chowk, D.N. Nagar, Andheri (West),)
 Mumbai - 400 053) ..Petitioners

Versus

- 1 Maharashtra Housing & Area Development)
 Authority, a statutory authority constituted)
 under the provisions of Maharashtra Housing)
 & Area Development Act, 1976, having its)
 office at Griha Nirman Bhavan, Bandra)
 (East), Mumbai – 400051.)
- 2 Vice President,)
 Maharashtra Housing & Area Development)
 Authority, having its office at Griha Nirman)
 Bhavan, Bandra (East), Mumbai – 400051.)
- 3 Building Permission Cell, Greater Mumbai)
 Mumbai Housing Area Development)
 Authority, through the Executive Engineer)
 (B.P. Cell) Greater Mumbai/MHADA)
 having its office at Griha Nirman Bhavan,)
 Kala Nagar, Bandra (East), Mumbai - 400 051)

- 4 The Principal Secretary,)
Housing Department, Government of)
Maharashtra, Mantralaya, Mumbai.)
- 5 Municipal Corporation of Greater Mumbai,)
Having its Office at Mahapalika Bhavan,)
Mahapalika Marg, Fort, Mumbai – 400001)
- 6 Assistant Registrar of Co-operative Societies)
(MHADA), Bandra East, Mumbai – 400051)
- 7 The State of Maharashtra,)
through its Urban Development Department,))
Mantralaya, Mumbai.)...Respondents

WITH
WRIT PETITION NO. 2351 OF 2022

- 1 AMEYA CO-OPERATIVE HOUSING)
SOCIETY LIMITED,)
a Co-operative Housing Society duly registered)
under the Maharashtra Co-operative)
Societies Act, 1960 having its registered office)
at Building No.1, D. N. Nagar, Andheri (West,))
Mumbai – 400053)
- 2 SHREE MAHAVIR ESTATE AMEYA)
a partnership firm duly registered under the)
provisions of the Indian Partnership Act, 1932,))
and having its principal place of business at)
Aditya, ‘A’ Wing, Podium Office No.2,)
Gulmohar Cross Road No. 7, Samarth Ramdas)
Marg, Juhu Vile Parle Development Scheme,))
Mumbai 400049.)
- 3 Snehal Patel of Mumbai Indian Inhabitant,)
having his address at Aditya,)
‘A’ Wing, Podium Office No.2,)
Gulmohar Cross Road No. 7, Samarth Ramdas)
Marg, Juhu Vile Parle Development Scheme,))
Mumbai 400049.) ... Petitioners

Versus

- 1 MAHARASHTRA HOUSING AREA)
AND DEVELOPMENT AUTHORITY,)
A Body corporate established under Section 3)
of the Maharashtra Housing and Area)
Development Act 1976, having its address at)
Legal Department, Griha Nirman Bhavan,)
4th Floor, Kalanagar, Bandra (East),)
Mumbai 400051.)
- 2 THE EXECUTIVE ENGINEER,)
(BUILDING PROPOSAL), GREATER MUMBAI,))
MHADA, an officer of Respondent No.1)
having his office address at Griha Nirman Bhavan,))
Kalanagar, Bandra (East), Mumbai 400051.) ... Respondents

WITH

WRIT PETITION NO. 1996 OF 2016

- 1 Vishal Pant Nagar Co-operative Housing)
Society Limited,)
Building No.127 & 128 having its office at)
Building No. 105/3159, Opp. Post Office,)
Pant Nagar, Ghatkopar (East),Mumbai – 400 075)
M/s Kesar Housing & Development Co.)
A registered partnership firm having its office)
at Kesar Solitaire Office Nos. 802-804,)
8th Floor, Plot No.5, Sector 19, Sanpada,)
Navi Mumbai-400 705.) ...Petitioners

Versus

- 1 State of Maharashtra,)
Through Urban Development Department,)
Mantralaya, Mumbai. (Govt. Pleader, High)
Court, Original Side, Bombay.)
- 2 Municipal Corporation of Greater Mumbai)
A body incorporated under the Mumbai Municipal)
Corporation Act, 1888, having its office at)

MHADA Act, 1976, having its office at)
 Griha Nirman Bhavan, Bandra (East),)
 Mumbai 400 051.) ...Respondents

WITH
 WRIT PETITION NO. 2000 OF 2016

Dinesh Abhechand Gandhi)
 Vikhram Abhechand Gandhi)
 Rajendra Abhechand Gandhi)
 All Adults, of Mumbai,)
 Indian Inhabitants, residing at)
 Ghanshyam Baug, 3rd Floor,)
 Dr. B.A. Road, (King Circle),)
 Matunga, Mumbai – 400 019.)
 M/s Kesar Housing & Development Co.)
 A registered partnership firm)
 having its office at Kesar Solitaire)
 Office Nos. 802-804, 8th Floor,)
 Plot No.5, Sector 19, Sanpada,)
 Navi Mumbai-400 705.) ...Petitioners

Versus

- 1 State of Maharashtra)
 Through Urban Development Department,)
 Mantralaya, Mumbai. (Govt. Pleader, High)
 Court, Original Side, Bombay.)
- 2 Municipal Corporation of Greater Mumbai,)
 A body incorporated under the Mumbai Municipal)
 Corporation Act, 1888, having its office at)
 Mahapalika Road, Mumbai- 400 001.)
- 3 Maharashtra Housing and Area Development)
 Authority, a body incorporated under the)
 MHADA Act, 1976, having its office at)
 Griha Nirman Bhavan, Bandra (East),)
 Mumbai 400 051.) ...Respondents

WITH
 WRIT PETITION NO. 2988 OF 2022

M/s.Goodbuild (India) Private Limited,)
 A Company registered under the Company)
 Act, 1956 and having its office at 9-B/302)
 God Gift Tower, M.R. Chowk, Hill Road,)
 Bandra (W), Mumbai through its Directors)
 (1) Mr.Rashad Ahmed Mujawar, and)
 (2) Mr.Arshad Mohammed Zaheer) ... Petitioners

VERSUS

1. Maharashtra Housing & Area)
 Development Authority, A Body Corporate)
 established u/s 3 of the MHADA, 1976,)
 having its address at Grihanirman)
 Bhavan, Kala Nagar, Bandra (E))
 Mumbai – 400 051.)

2. The Executive Engineer,)
 Building Permission Cell, Greater)
 Mumbai, Mumbai Housing Area)
 Development Authority, an Officer)
 of Respondent No.1, having his)
 Office at Grihanirman Bhavan,)
 Kala Nagar, Bandra (E), Mumbai -51)

3. Versova Andheri Vasundhara Co-op.)
 Housing Society Limited,)
 A Co-operative Housing Society Act,)
 1960, having its registered address)
 at Plot No.AD-95, 29, S.No.120, CTS)
 No.13748/51 (Part), Municipal K/West)
 Ward, Versova, Andheri (W),)
 Mumbai 53, through its Secretary).. Respondents

WITH
 WRIT PETITION NO. 102 OF 2021

1 LANDCARE REALTY LLP,)
 A partnership firm registered under Limited)
 Liability Partnership Act, 2008, having)

- address at 60, 6th Floor, Orbit Plaza,)
 New Prabhadevi Marg, Prabhadevi,)
 Mumbai – 400 025.)
- 2 Mr. Dhannalal P. Jain,)
 Adult, Indian Inhabitant, Partner of)
 Petitioner No. 1 above named, having address))
 at 60, 6th Floor, Orbit Plaza,)
 New Prabhadevi Marg, Prabhadevi,)
 Mumbai – 400 025.) ...Petitioners

Versus

- 1 The Municipal Corporation of Greater)
 Mumbai, a Statutory Corporation Constituted))
 under the provisions of the Mumbai Municipal))
 Corporation Act, 1888, having its office at)
 Mahapalika Marg, Mumbai - 400 001.)
- 2 The Municipal Commissioner,)
 The Municipal Corporation of Greater Mumbai),)
 having its office at Mahapalika Marg,)
 Mumbai - 400 001.)
- 3 The State of Maharashtra,)
 Through its Urban Development Department,))
 Mantralaya, Mumbai.)...Respondents

WITH
 WRIT PETITION NO. 2247 OF 2016

- 1 Sahakar Nagar Udaya Bhavan Co-operative))
 Housing Society Ltd. A Co-operative Housing))
 Society registered Under the provisions of)
 Maharashtra Cooperative Societies Act, 1960,))
 having its Registered office at Building No.9,))
 Sahakar Nagar, Udaya Bhuvan CHSL)
 Shell Colony, Chembur, Mumbai 400 071)
- 2 Shree Krishna Homes Pvt.Ltd.,)
 A company incorporated under the)

provisions Of the companies Act, 1956,)
 having its Corporate office at Sethna Manor,)
 6th floor, Plot No. 369, 6th Road, Chembur,)
 Mumbai 400 071)

..... Petitioners

Versus

1 State of Maharashtra,)
 Through the Urban Development Department,)
 Government of Maharashtra, Though the)
 office of Government Pleader High Court,)
 (O.S.) Bombay, PWD Building, Fort,)
 Mumbai 400 001)

2 Municipal Corporation of Greater Mumbai)
 Having its office, Mahapalika Marg,)
 M.G. Road, Fort, Mumbai 400 001.)

3 Executive Engineer, Building Proposals,)
 M- Ward, Municipal Corporation of Greater)
 Mumbai, At office of Dy. Chief Engineer (BP))
 Easter Suburbs office, Near Raj Legacy,)
 Paper Mill Compound, L.B.S. Marg,)
 Vikhroli (West), Mumbai)

4 Maharashtra Housing & Area Development)
 Authority, Having its office at Griha)
 Nirman Bhavan, Kala Nagar, Bandra (E),)
 Mumbai 400 050)..... Respondents

WITH
 WRIT PETITION (L) NO. 14032 OF 2022

1 Tagore Nagar Pushpanjali Co-op. Housing)
 Society Ltd., formed under the provisions of)
 Maharashtra Co-operative Housing Societies)
 Act, 1960 bearing Registration)
 No. BOM/ HSG/ 1400/ 84-85 dated 31/05/1985)
 Having its registered office at Building No. 13,)
 Tagore Nagar, Vikhroli, Mumbai 400 083)

- 2 M/s. Shreedham developer,)
 a registered partnership firm having its office))
 at 1201, Universal Majestic,))
 Opp. R.B.K. International School,))
 Chembur, Mumbai 400 043.) ..Petitioners

Versus

- 1 Mumbai Housing Area development)
 authority,)
 a body corporate established under section 3)
 of the Maharashtra Housing and Area)
 Development Act, 1976, having its address at)
 Griha Nirman Bhavan, Kalanagar,)
 Bandra (east), Mumbai 400 051.)
- 2 Vice President and Chief Executive Officer)
 Mumbai Housing Area Development Authority)
 having his office at Griha Nirman Bhavan,)
 Kalanagar, Bandra (east), Mumbai 400 051.)
- 3 Building Permission Cell,)
 Greater Mumbai, Mumbai Housing Area)
 Development authority, through executive)
 engineer (B.P. Cell) Greater Mumbai/MHADA)
 having its office at Griha Nirman Bhavan,)
 Kalanagar, Bandra (east), Mumbai 400 051.)
- 4 The State of Maharashtra through)
 the Secretary, Urban Development Department,))
 Mantralaya Mumbai 400 032.) ... Respondents

WITH

WRIT PETITION (L) NO. 14321 OF 2022

- VL GAJAMUKH DEVELOPERS LLP)
 A partnership Firm having its address at)
 Shop No.2, 'C' Wing, Building No.150,)
 Stella Residency, Kannamwar Nagar – I,)
 Vikhroli (East), Mumbai – 400 083.) ... Petitioner

Versus

- 1 THE MAHARASHTRA HOUSING AREA)
AND DEVELOPMENT AUTHORITY)
A Body corporate established under Section 3)
of the Maharashtra Housing and Area Development)
Act 1976, having its address at Grihanirman Bhavan,)
Kala Nagar, Bandra (East), Mumbai 400 051.)
- 2 THE EXECUTIVE ENGINEER,)
(BUILDING PROPOSAL), MHADA)
An officer of Respondent No.1 having his)
office address at Building Permission Cell,)
MHADA, Bandra (East), Mumbai – 400 051.)
- 3 PANTNAGAR GAJAMUKH CO-OPERATIVE)
HOUSING SOCIETY LIMITED)
A co-operative housing society incorporated)
under the Maharashtra Co-operative Societies)
Act, 1960 having its address at Building No.79,)
Pant Nagar, Ghatkopar (East), Mumbai – 400 075.) ... Respondents

WITH
WRIT PETITION (L) NO. 14328 OF 2022

- 1 V. LAXMI NURSES DEVELOPERS LLP)
A partnership Firm having its address at)
Shop No.2, 'C' Wing, Near Axis Bank,)
Stella Residency, Kannamwar Nagar – I,)
Vikhroli (East), Mumbai – 400 083.) Petitioner

Versus

- 1 THE MAHARASHTRA HOUSING AREA)
AND DEVELOPMENT AUTHORITY)
A Body corporate established under Section 3)
of the Maharashtra Housing and Area)
Development Act 1976, having its address at)
Grihanirman Bhavan, Kala Nagar,)
Bandra (East), Mumbai 400 051.)
- 2 THE EXECUTIVE ENGINEER,)

- (BUILDING PROPOSAL), MHADA)
 An officer of Respondent No.1 having)
 his office address at Building Permission)
 Cell, MHADA, Bandra (East),)
 Mumbai – 400 051.)
- 3 NURSES WELFARE CO-OPERATIVE)
 HOUSING SOCIETY LIMITED)
 A co-operative housing society incorporated)
 under the Maharashtra Co-operative Societies Act,)
 1960 having its address at)
 Building Nos.220-222, Kannamwar Nagar,)
 Vikhroli (East), Mumbai – 400 083) ... Respondents

WITH
 WRIT PETITION (L) NO. 14484 OF 2022

- 1 CRYSTAL CONSTRUCTION COMPANY)
 A partnership Firm having its address at 702, A-2,)
 Shubham Centre, Chakala Square,)
 Andheri-Kurla Road, Andheri (East),)
 Mumbai – 400 099.) Petitioner

Versus

- 1 THE MAHARASHTRA HOUSING AREA)
 AND DEVELOPMENT AUTHORITY)
 A Body corporate established under Section 3 of
 the Maharashtra Housing and Area Development)
 Act 1976, having its address at Grihanirman Bhavan,)
 Kala Nagar, Bandra (East), Mumbai 400 051.)
- 2 THE EXECUTIVE ENGINEER,)
 (BUILDING PROPOSAL), MHADA)
 An officer of Respondent No.1 having his office)
 address at Building Permission Cell, MHADA,)
 Bandra (East), Mumbai – 400 051.)
- 3 HITENDRA DHAMM SHABHA CO-OPERATIVE)
 HOUSING SOCIETY LIMITED)
 A co-operative housing society incorporated under)
 the Maharashtra Co-operative Societies Act, 1960)
 having its address at Building No.C-3,)

New Shastri Nagar, Road No.1, Goregaon (West),
Mumbai – 400 104.)

... Respondents

WITH
WRIT PETITION NO. 1492 OF 2016

1 CENTRAL MUMBAI DEVELOPERS)
WELFARE ASSOCIATION, a society)
Registered under the Societies Registration)
Act, 1860 and having its registered office at)
702, Runwal & Omkar Esquare, Eastern)
Express Highway, Sion (East),Mumbai 400 022.)

2 BHAVESH CHANDRAKANT SHAH)
Age: Adult, Indian Citizen, Manager of)
Central Mumbai Developers Welfare)
Association, vide resolution having his)
office at 702, Runwal & Omkar Esquare,)
Eastern Express Highway, Sion (East),)
Mumbai 400 022.)

... Petitioners

Versus

1 STATE OF MAHARASHTRA)
Through the Principal Secretary)
Urban Development Department)
Mantralaya, Mumbai 400 032.)

2 MUNICIPAL CORPORATION OF)
GREATER MUMBAI)
A statutory corporation incorporated under)
the Mumbai Municipal Corporation Act,)
1888; and having its Office at Mahapalika)
Marg, C.S.T., Mumbai 400 001.)

- 3 THE MUNICIPAL COMMISSIONER)
Municipal Corporation of Greater Mumbai)
having his office at Mahapalika Marg,)
C.S.T., Mumbai 400 001.) ... Respondents

WITH
WRIT PETITION (L) NO. 16598 OF 2022

- 1 Ameya Realtors Pvt. Ltd.)
A company registered under the Companies)
Act, 1956, having its registered address at)
B-101, Aditya Heritage, V.N.Purav Marg,)
Sion-Chunabhatti, Mumbai 400 022)
- 2 Eastern Heights Co-operative Housing)
Society Ltd.)
A co-operative housing society incorporated)
under the Maharashtra Co-operative Societies)
Act, 1960, having its address at Building No.7,)
C.T.S.No. 458 (Pt.), Opp.Everard Nagar,)
Sion-Chunabhatti, Mumbai – 400 022) Petitioners

Versus

- 1 The State of Maharashtra,)
Through its Urban Development Department)
having its office at Mantralaya, Madam)
Cama Road, Hutatma Rajguru Square,)
Nariman Point, Mumbai – 400 032)
- 2 The Maharashtra Housing Area and)
Development Authority,)
A statutory corporation established under)
section 3 of the Maharashtra Housing and)
Area Development Act, 1976,)
- 3 The Executive Engineer,)
Building Permission Cell, Greater Mumbai)
(ES), MHADA, An officer of the)
Respondent No.2 Both having their address at

MHADA, Grihanirman Bhavan, Kalanagar,)
 Bandra (East), Mumbai 400 051) Respondents

WITH
 WRIT PETITION (L) NO. 16659 OF 2022

- 1 Vir Bhuvan Co-operative Housing)
 Society Ltd. a Society registered)
 under the provisions of the Maharashtra)
 Cooperative Societies Act 1961 having its)
 address at 102, 103, Smag House, 1st floor,)
 Plot no.157-A, Sarojini Road Extension,)
 Vile Parle (West), Mumbai 400 056)
- 2 Parinee Vir Bhuvan Redevelopment)
 Pvt. Ltd., a company incorporated under the)
 provisions of the Companies Act, 1956 and)
 having its office at 102/ 103, Smag House,)
 1st floor, Plot no. 157-A, Sarojini Road)
 Extension, Vile Parle (West),)
 Mumbai 400 056) .. Petitioners

VERSUS

- 1 State of Maharashtra through the)
 The Urban Development Department)
 having its office at Mantralaya,)
 Mumbai 400 032)
- 2 The Maharashtra Housing and Area)
 Development Authority, having its address)
 at Grihanirman Bhavan, Kala Nagar,)
 Bandra (East), Mumbai 400 051)
- 3 Executive Engineer (B.P) (W.S.))
 Building Permission Cell, Greater Mumbai)
 Having its address at MHADA Building,)
 Grihanirman Bhavan, Kala Nagar,)
 Bandra (East), Mumbai 400 051) .. Respondents

under the provisions of the Limited Liability)
 Partnership Act, 2005 having its address at)
 Shop No. 2, Prabhukrupa Building,)
 Plot No. 28, Tilak Road, Ghatkopar (East),)
 Mumbai - 400077.)

..... Petitioner

Versus

1 THE MAHARASHTRA HOUSING AREA)
 AND DEVELOPMENT AUTHORITY)
 A Body corporate established under Section 3)
 of the Maharashtra Housing and Area)
 Development Act 1976, having its address at)
 Grihanirman Bhavan, Kala Nagar, Bandra)
 (East), Mumbai 400 051.)

2 THE EXECUTIVE ENGINEER,)
 (BUILDING PROPOSAL),)
 GREATER MUMBAI)
 An officer of Respondent No.1 having his)
 office address at Grihanirman Bhavan,)
 Kala Nagar, Bandra (East), Mumbai 400 051.)

3 PANTNAGAR HEMANT CO-OPERATIVE)
 HOUSING SOCIETY LIMITED)
 A co-operative housing society incorporated)
 under the Maharashtra Co-operative Societies)
 Act, 1960 having its address at)
 Building No. 73, Pant Nagar, Ghatkopar)
 (East), Mumbai – 400 075.)

... Respondents

WITH
 WRIT PETITION (L) NO. 17485 OF 2022

HS ALAG REALTY LLP)
 A Limited liability partnership incorporated)
 under the provisions of the Limited)
 Liability Partnership Act, 2005 having its)
 address at Shop No. 2, Prabhukrupa

Building, Plot No. 28, Tilak Road,
Ghatkopar (East), Mumbai - 400077.

...PETITIONER

VERSUS

1 THE MAHARASHTRA HOUSING)
AREA AND DEVELOPMENT)
AUTHORITY)

A Body corporate established under)
Section 3 of the Maharashtra Housing)
and Area Development Act 1976,)
having its address at Grihanirman)
Bhavan, Kala Nagar, Bandra (East),)
Mumbai 400 051.)

2 THE EXECUTIVE ENGINEER,)
(BUILDING PROPOSAL),)
GREATER MUMBAI)

An officer of Respondent No.1 having)
his office address at Grihanirman)
Bhavan, Kala Nagar, Bandra (East),)
Mumbai 400 051.)

3 PANTNAGAR AMRUTWEL CO-)
OPERATIVE HOUSING SOCIETY)
LIMITED)

A co-operative housing society)
incorporated under the Maharashtra)
Co-operative Societies Act, 1960)
having its address at Building No. 44,)
Pant Nagar, Ghatkopar (East),))
Mumbai – 400 075.))

...RESPONDENTS

WITH
WRIT PETITION (L) NO. 17501 OF 2022

CONTOUR DEVELOPERS LLP)

A Limited liability partnership)

incorporated under the provisions of the
 Limited Liability Partnership Act, 2005)
 having its address at 401, X-Cube, Plot)
 636, Opp. Fun Republic Theatre, Off Link)
 Road, Andheri (W), Mumbai – 400 052.) ...PETITIONER
)

VERSUS

1 THE MAHARASHTRA HOUSING)
 AREA AND DEVELOPMENT)
 AUTHORITY)
 A Body corporate established under)
 Section 3 of the Maharashtra)
 Housing and Area Development Act)
 1976, having its address at)
 Grihanirman Bhavan, Kala Nagar,)
 Bandra (East), Mumbai 400 051.)

2 THE EXECUTIVE ENGINEER,)
 (BUILDING PROPOSAL),)
 GREATER MUMBAI)
 An officer of Respondent No.1)
 having his office address at)
 Grihanirman Bhavan, Kala Nagar,)
 Bandra (East), Mumbai 400 051.)

3 GHATKOPAR DEVANGANA CO-)
 OPERATIVE HOUSING SOCIETY)
 LIMITED)
 A co-operative housing society)
 incorporated under the Maharashtra)
 Co-operative Societies Act, 1960)
 having its address at Building No.)
 41, Pant Nagar, Ghatkopar (East),)
 Mumbai – 400 075..) ...RESPONDENTS

WITH

WRIT PETITION (L) NO. 17633 OF 2022

- 1 Krishnakumar Bhagwantiprasad)
Alias Bhagwantrao Gupta,)
Adult Indian Inhabitant, residing at)
Parvati Darshan, Nandivali Road)
Dombivali (West) Thane)
 - 2 Pravin Bhagwantiprasad,)
Adult Indian Inhabitant, residing at 10,)
Sulbha Apartment, Karnik road)
Kalyan (West), Thane)
 - 3 Vidya Vijay Adhikari,)
Adult Indian Inhabitant, residing at)
Rambhali, Near CME Gate, Pune Nasik)
Road, Bhosar, Pune)
 - 4 Shailaja Balakrishna Chawan,)
Adult Indian Inhabitant, residing at)
Chawan's House, Shiv Mandir Road,)
Govandi (East) Mumbai)
 - 5 Khemant Nandu,)
Sole Proprietor of Yashvi Corporation)
Having office at Ashwini Niwas,)
M.P Road, Vishnu Nagar,)
Dombivali (West), Thane)
- Petitioners

Versus

1. State of Maharashtra,)
Urban Development Department,)
Through the office of the Government)
Pleader, Bombay High Court, (O.S.))
PWD Building, Fort, Mumbai 400 001)
2. The Collector, Mumbai suburban District))
Through the office of the Government)
Pleader, Bombay High Court, (O.S.))
PWD Building, Fort, Mumbai 400 001)

3. Municipal Corporation of Greater Mumbai)
Through its Legal Department, Mahapalika)
Bhavan, CST, Mumbai 400 001)
4. Sub Engineer, Building Proposals,)
E.S. Municipal Corporation of Greater)
Mumbai, Near Raj Legacy, Paper Mill)
Compound, L.B.S. Marg, Vikhroli (West)
Mumbai 400 083) Respondents

WITH
WRIT PETITION (L) NO. 17675 OF 2022

1. Madhurika Arvind Joshi,)
Adult Indian inhabitant, residing at Sai)
Prasad, 10th Road, Chembur, Mumbai)
400 071, through her Power of Attorney)
Holder Mr. Kiran M. Shah)
2. M/s. Trinity Builders,)
A Partnership firm duly registered under)
the Provisions of the Indian Partnership Act,)
1932, having its office at 204, Akshay)
Plaza 1st Road, Chembur,)
Mumbai 400 071)
3. Kiran M. Shah,)
Adult Indian Inhabitant, Partners of)
M/s. Trinity Builders, having his office at)
Office no. 204, Akshay Plaza,)
1st Road, Chembur, Mumbai 400 071) Petitioners

Versus

1. State of Maharashtra,)
Urban Development Department,)
Through the office of the Government)
Pleader, Bombay High Court, (O.S.))
PWD Building, Fort, Mumbai 400 001)

2. The Collector, Mumbai Suburban District)
Through the office of the Government)
Pleader, Bombay High Court, (O.S.))
PWD Building, Fort, Mumbai 400 001)
3. Municipal Corporation of Greater Mumbai)
Through its Legal Department, Mahapalika
Bhavan, CST, Mumbai 400 001)
4. Sub Engineer, Building Proposals,)
E.S. Municipal Corporation of Greater
Mumbai, Near Raj Legacy,)
Paper Mill Compound, L.B.S. Marg,)
Vikhroli (West), Mumbai 400 083) Respondents

WITH
WRIT PETITION NO. 2363 of 2017

1. Richa Realtors Pvt. Ltd.)
A company registered under Indian)
Companies Act, 1956, having its)
Registered office at 101, Kshitij Bldg.)
Sena Bhavan Path, Dadar West,)
Mumbai-400 028.)
2. Mr. Anil Baburao Thote,)
Director of the Petitioner No.1)
having his office at 101, Kshitij)
Bldg., Sena Bhavan Path,)
Dadar West, Mumbai – 400 028) ...Petitioners

Versus

1. State of Maharashtra,)
Through Government Pleader)
P.W.D. Building, High Court Mumbai)
2. Municipal Corporation of Brihan)
Mumbai a statutory corporation)
incorporated under the provisions of)
the Mumbai Municipal Corporation Act,)

1888 having its registered Office at)
 Mahapalika Bhavan, Mahapalika Marg,)
 Mumbai-400001)

3. The Municipal Commissioner)
 Municipal Corporation of Greater)
 Mumbai having his office at Mahapalika)
 Marg, Fort, Mumbai - 400 001)

4. Building Proposal Department)
 W.S., R K Patkar Marg,)
 Near Bhabha Hospital, Bandra West)
 Mumbai, 400050)

5. Deputy CHE,)
 Building Proposal Department, W.S.)
 R K Patkar Marg,)
 Near Bhabha Hospital, Bandra West)
 Mumbai, 400050)

6. Maharashtra Housing & Area Development)
 Authority (MHADA))
 Grihnirman Bhavan, Kala Nagar,)
 Bandra East, Mumbai-400 0051)

.. Respondents

WITH
 WRIT PETITION NO. 2716 of 2017

1. Richa Realtors Pvt. Ltd.)
 A company registered under Indian)
 Companies Act, 1956, having its)
 Registered office at 101, Kshitij Bldg.,)
 SenaBhavan Path, Dadar West,)
 Mumbai-400 028.)

2. Mr. Anil Thote, Partner of the)
 Petitioner having his office at)
 101, Kshitij Bldg., SenaBhavan Path,)
 Dadar West, Mumbai – 400 028)

...Petitioners

Versus

- 1 State of Maharashtra,)
Through Government Pleader)
P.W.D. Building, High Court Mumbai)
- 2 Municipal Corporation of Brihan)
Mumbai a statutory corporation)
Incorporated under the provisions of)
the Mumbai Municipal Corporation Act,))
1888 having its registered Office at)
MahapalikaBhavan, MahapalikaMarg,)
Mumbai-400001)
- 3 The Municipal Commissioner)
Municipal Corporation of Greater)
Mumbai having his office at Mahapalika))
Marg, Fort, Mumbai - 400 001)
- 4 Building Proposal Department)
E.S. 1st floor, Rajlingsi Building,)
Paper Mill Compoound)
LBS Road, Vikhroli West,)
Mumbai-400 078)
- 5 Deputy CHE,)
Building Proposal E.S.)
1st floor, Rajlingsi Building,)
Paper Mill Compoound)
LBS Road, Vikhroli West,)
Mumbai-400 078)
- 6 Maharashtra Housing & Area Development)
Authority (MHADA))
GrihnirmanBhavan, Kala Nagar,)
Bandra East, Mumbai-400 0051) .. Respondents

WITH
WRIT PETITION (L) NO. 18181 OF 2022

SANA ENTERPRISES)
 A partnership firm registered under the Indian)
 Partnership Act 1932, having its registered)
 office address at Shop No.1, Kalina Sangam)
 CHS Ltd, Plot No 4917, Kole-Kalyan, Kalina,)
 Manipada, Santacruz (East), Mumbai – 400)
 098.)...PETITIONER

VERSUS

1. THE MAHARASHTRA HOUSING AREA)
 AND DEVELOPMENT AUTHORITY)

 A Body corporate established under Section 3)
 of the Maharashtra Housing and Area)
 Development Act 1976, having its address at)
 Grihanirman Bhavan, Kala Nagar, Bandra)
 (East), Mumbai 400 051.)

2. THE EXECUTIVE ENGINEER, (BUILDING)
 PROPOSAL), MHADA)

 An officer of Respondent No.1 having his)
 office address at Building Permission Cell,)
 MHADA, Bandra (East), Mumbai – 400 051.)

3. TILAK NAGAR PRAGATI CO-)
 OPERATIVE HOUSING SOCIETY)
 LIMITED)
 A co-operative housing society)
 incorporated under the Maharashtra Co-)
 operative Societies Act, 1960 having its)
 address at 36/1, Tilak Nagar, Chembur,)
 Mumbai – 400 089.)...RESPONDENTS

WITH

WRIT PETITION (L) NO. 18252 OF 2022

GAMMON REALTY LIMITED)
 A Company registered under the provisions)
 of the Companies Act, 1956 and deemed to)

have been registered under the Companies)
 Act, 2013having its address at 3rd Floor,)
 Plot No. 3/8, Hamilton House, J.N. Heredia)
 Marg, Ballard Estate, Mumbai - 400 038) ...PETITIONER

VERSUS

THE MAHARASHTRA HOUSING)
 AREA AND DEVELOPMENT)
 AUTHORITY)
 A Body corporate established under)
 Section 3 of the Maharashtra Housing)
 and Area Development Act 1976,)
 having its address at Grihanirman)
 Bhavan, Kala Nagar, Bandra (East),)
 Mumbai 400 051.)

THE EXECUTIVE ENGINEER,)
 (BUILDING PROPOSAL),)
 GREATER MUMBAI)
 An officer of Respondent No.1 having)
 his office address at Grihanirman)
 Bhavan, Kala Nagar, Bandra (East),)
 Mumbai 400 051.)

BANDRA ABHIJIT CO-OPERATIVE)
 HOUSING SOCIETY LIMITED)
 A co-operative housing society)
 incorporated under the Maharashtra)
 Co-operative Societies Act, 1960)
 having its address at Building No. 4,)
 Kher Nagar, Bandra (East), Mumbai –)
 400051.) ...RESPONDENTS

WITH
 WRIT PETITION (L) NO. 18290 OF 2022

1. Vikhroli Saikrupa Co-op. Housing)
 Society Ltd. formed under the)
 provisions of Maharashtra Co-operative)

- Housing Societies Act, 1960, bearing)
 Registration No. BOM/HSG/1790/1985-86)
 dated 31/01/1986, having its registered)
 office at Building No.6, Tagore Nagar,)
 Vikhroli, Mumbai 400 083)
2. M/s.Nirvaana Constructions LLP,)
 a partnership firm registered under the)
 provisions of Limited Liability Partnership)
 Act, 2008, having its office at 1205,)
 Universal Majestic, Opp. R.B.K.International)
 School, Chembur, Mumbai 400 043)
- Petitioners

Versus

1. Mumbai Housing Area Development)
 Authority, a body corporate established)
 under section 3 of the Maharashtra Housing)
 and Area Development Act, 1976, having)
 its address at Griha Nirman Bhavan,))
 Kalanagar, Bandra (East), Mumbai 400 051)
2. Vice President and Chief Executive Officer)
 Mumbai Housing Area Development)
 Authority having his office at)
 Griha Nirman Bhavan, Kalanagar,Bandra)
 (East), Mumbai 400 051)
3. Building Permission Cell, Greater Mumbai)
 Mumbai Housing Area Development)
 Authority, through executive engineer,))
 (B.P. Cell) Greater Mumbai/MHADA)
 having its office at Griha Nirman Bhavan,))
 Kalanagar, Bandra (East), Mumbai 400 051)
4. The State of Maharashtra,)
 through the Secretary, Urban Development)
 Department, Mantralaya, Mumbai 400 032) Respondents

WITH

WRIT PETITION NO. 3018 OF 2021

	D. N. NAGAR DURVANKAR CO-OPERATIVE HOUSING LIMITED)	
	A co-operative housing society incorporated under the Maharashtra Co-operative Societies Act, 1960 bearing registration no. BOM/WKW/HSG/TC/9862/1997-1998 dated 13-02-1998 and having its registered office at Building No. 15, D. N. Nagar, Ganesh Chowk, J. P. Road, Andheri (West), Mumbai-400 053.)	...PETITIONER
	VERSUS)	
1	THE MAHARASHTRA HOUSING AREA AND DEVELOPMENT AUTHORITY)	
	A Body corporate established under Section 3 of the Maharashtra Housing and Area Development Act 1976, having its address at Grihanirman Bhavan, Kala Nagar, Bandra (East), Mumbai 400 051.)	
2	Vice President & Chief Executive Officer Mumbai Housing Area Development Authority having his address at Grihanirman Bhavan, Kala Nagar, Bandra (East), Mumbai-400 051)	
3	THE EXECUTIVE ENGINEER, Building Permission Cell, Greater Mumbai Mumbai Housing Area Development Authority, an officer of Respondent No.1 having his office address at Grihanirman Bhavan, Kala Nagar, Bandra (East), Mumbai-400 051.)	
4	PLATINUM CORP DEVELOPERS LLP)	
	A limited liability partnership constituted under the provisions of the Limited Liability Partnership Act, 2008 having its address at _901, Peninsula Heights, C. D. Barfiwala Marg, Juhu)	

	Lane, Andheri- West, Mumbai- 400 058.)	
5	The State of Maharashtra, Through its Urban Development Department Mantralaya, Mumbai)))	...RESPONDENTS

WITH
WRIT PETITION (L) NO. 18616 OF 2022

Kamala Hub Juhu Office Premises Co-operative)
Society Limited)
a society registered under the provisions)
of the Maharashtra Co-operative Societies)
Act, 1960 under registration No.)
MUM/WKP/GNL/O/2574/2015-16)
having its address at Kamla Hub,)
CTS No.35 (PT), Plot No.53,)
JVPD Scheme, Vile Parle (West))
Mumbai - 400 049.)

Versus

1. Maharashtra Housing and Area)
Development Authority)
A statutory Authority duly constituted)
under the provisions of the Maharashtra)
Housing and Area Development Act, 1976,)
having its office at Griha Nirman Bhavan)
MHADA, Bandra (East))
Mumbai - 400051.)

2. The Chief Officer)
Maharashtra Housing and Area Development)
Authority, an Authority duly constituted)
under the provisions of the Maharashtra)
Housing and Area Development Act, 1976,)
having its office at Griha Nirman Bhavan)
MHADA, Bandra (East))
Mumbai - 400051.)

3. Building Permission Cell, Gr. Mumbai)
 Through the Executive Engineer)
 (B.P. Cell) Greater Mumbai/MHADA)
 having its office at Griha Nirman Bhavan,)
 MHADA, Bandra (East))
 Mumbai - 400 051.)
4. The Municipal Corporation of Gr. Mumbai)
 A statutory Corporation having its office at)
 Mahapalika Marg, Fort,)
 Mumbai – 400001.)
5. The State of Maharashtra)
 through the Urban Development Department)
 having its office at Mantralaya,)
 Mumbai - 400 032.)
6. Kamala Param Constructions Private Limited)
 a company incorporated under the provisions of)
 of the Companies Act, 1956 now governed)
 under the provisions of the Companies Act, 2013)
 having its registered office at Plot No.9,)
 Gulmohar Road No.1,)
 JVPD Scheme, Near Juhu Circle)
 Andheri (West) Mumbai 400 049 and)
 its Corporate office address at Terminal 9,)
 Nehru Road, Vile Parle (E), Mumbai - 400 099.)

WITH
 WRIT PETITION (L) NO. 18755 OF 2022

- 1 Asshna Developers Westin)
 a Sole Proprietary concern of Mr.Amith C.)
 Punjabi having its registered office at)
 Sky Crest, 1st Floor, Next to ICICI Bank,)
 Road No.03, Liberty Garden, Malad (West))
 Mumbai – 400 064.)

Versus

- 1 Maharashtra Housing & Area Development Authority, A Statutory Authority duly constituted under the provisions of the Maharashtra Housing and Area Development Act, 1976, having its office at Griha Nirman Bhavan MHADA, Bandra (East) Mumbai - 400051.)
- 2 The Chief Officer, Maharashtra Housing & Area Development Authority, A Statutory Authority duly constituted under the provisions of the Maharashtra Housing and Area Development Act, 1976, having its office at Griha Nirman Bhavan MHADA, Bandra (East), Mumbai - 400051.)
- 3 Building Permission Cell, Greater Mumbai Through the Executive Engineer, (B.P. Cell) having its office at Griha Nirman Bhavan MHADA, Bandra/MHADA, having its office at Griha Nirman Bhavan MHADA, Bandra (East), Mumbai - 400051.)
- 4 The Municipal Corporation of Greater Mumbai, a statutory corporation having its office at Mahapalika Marg, Mumbai - 400 001))
- 5 The State of Maharashtra through its Urban Development Department, Having its office at Mantralaya, Mumbai-32.)
- 6 Ekopa Sahaniwas Co-operative Housing Society Limited, A society registered under the Maharashtra Co-operative Societies Act, 1960 under registration No.BOM/HSG/4652 of 1975 having its registered address at Building No.1, Aram Nagar, Andheri (W) Mumbai – 400 061.)

...Respondents

WITH
WRIT PETITION NO. 404 OF 2017

1 KDI Holdings Private Limited,)
 a company incorporated under the provisions)
 of Indian Companies Act, 1956 and having)
 its office at B-106, Sanjay Apartment,)
 S.V.P. Road, Borivali (West),)
 Mumbai - 400 092.)

2 Mr. Chetan Shah, an adult Indian Inhabitant,)
 Director of Petitioner No.1 and having his)
 office at B-106, Sanjay Apartment,)
 S.V.P. Road, Borivali (West),)
 Mumbai - 400 092) Petitioners

Versus

1 State of Maharashtra)
 through its Urban Development Department,)
 Mantralaya, Mumbai.)

2 Municipal Corporation of Greater Mumbai)
 through the Municipal Commissioner,)
 Head Office, Opp. Azad Maidan,)
 Mumbai - 400 001.)

3 Mumbai Housing Area Development Authority)
 a local authority having its office at Griha)
 Nirman Bhavan, Kalanagar, Bandra (East))
 Mumbai - 400 051) Respondents

WITH
WRIT PETITION NO. 2985 OF 2018

1 Rohan Developer Pvt.Ltd.,)
 A company incorporated under the)
 Companies Act, 1956 having their)
 Registered office at Gordhan Building No.II)
 2nd floor, 12/14, Dr. Parekh Street,)
 Prathana Samaj, Mumbai 400 004)

2 Indo Global Soft Solutions and)
Technologies Pvt. Ltd. a company)
Incorporated under the provisions of)
The companies Act, 1956 and having)
Its registered office at Plot No. 41)
Rajiv Gandhi Infotech Park, Phase 1)
Near B.M School Hinjewadi, Pune)
Maharashtra 411 052) Petitioners

Versus

1 State of Maharashtra,)
Urban Development Department,)
Through the office of the Government)
Pleader, Bombay High Court, (O.S.))
PWD Building, Fort, Mumbai 400 001)

2 Municipal Corporation of Greater Mumbai)
Legal Department, , Mahapalika Marg,)
M.G. Road, fort, Mumbai 400 001)

3 Ex. Engineer, Building Proposals, (City))
F/North Ward, Municipal Corporation of)
Greater Mumbai, Plot No. 96,)
Bhau Daji Road, King Circle,)
Matunga (East), Mumbai 400 019)

4 Office of Asstt,. Comm. (Estate),)
Municipal Corporation of Greater Mumbai)
Municipal Building, (Extension).)
4th Floor, Fort, Mumbai 400 001) Respondents

WITH

WRIT PETITION NO. (L) 19781 OF 2022

1 M/s. Kabra & Associates)
a Partnership Firm, duly registered under)
the provisions of the Indian Partnership)
Act, 1932, and having its registered office at)
1001, 10th Floor, Kamla Hub,)
N.S. Road No. 1, JVPD Scheme,)

- Andheri (West), Mumbai – 400 049.)
- 2 Mr. Gautam Kabra)
 adult, Mumbai Indian Inhabitant,)
 having address at 1001, 10th Floor,)
 Kamla Hub, N.S. Road No. 1, JVPD)
 Scheme, Andheri (West),)
 Mumbai – 400 049.)...Petitioners

Versus

- 1 Maharashtra Housing & Area Development)
 Authority, a Statutory authority, Constituted)
 under the provisions of Maharashtra)
 Housing & Area Development Act, 1976,)
 having its office at Griha Nirman Bhavan,)
 Bandra (East), Mumbai – 400051.)
- 2 Vice President,)
 Maharashtra Housing & Area Development)
 Authority, having its office at Griha)
 Nirman Bhavan, Bandra (East))
 Mumbai – 400051.)
- 3 Building Permission Cell, Greater Mumbai,)
 Mumbai Housing Area Development)
 Authority, through the Executive Engineer)
 (B.P. Cell) Greater Mumbai/MHADA)
 having its office at Griha Nirman Bhavan,)
 Kala Nagar, Bandra (East),)
 Mumbai - 400 051)
- 4 The Principal Secretary,)
 Housing Department,)
 Government of Maharashtra,)
 Mantralaya, Mumbai.)
- 5 Municipal Corporation of Greater Mumbai,)
 Having its Office at Mahapalika Bhavan,)
 Mahapalika Marg, Fort, Mumbai – 400001)

- 6 Assistant Registrar of Co-operative Societies (MHADA), Bandra East, Mumbai – 400051)
)
- 7 Dindoshi Darshan Co-operative Housing Society Ltd., a society registered under the Maharashtra Co-operative Societies Act, 1960, having its registered office at Building No. 1, Shivdham Complex, Opp. Dindoshi Fire Station, Dindoshi, Malad (East), Mumbai – 400 097.)
)
- 8 The State of Maharashtra, through its Urban Development Department, Mantralaya, Mumbai.) ...Respondents

WITH
WRIT PETITION (L) NO.20227 OF 2022

V Laxmi Estate Developers Private Limited)
a company incorporated within the provisions of)
the Companies Act, 2013 having its address at)
SH-02 C Wing, Building No.150,)
Kannamwar Nagar, Near Shivsena Shakha,)
Vikhroli (E), Mumbai – 400 083.) ... Petitioner

Versus

1 Maharashtra Housing Area and Development Authority)
A Body corporate established under)
Section 3 of the Maharashtra Housing and Area Development Act 1976,)
having its address at Grihanirman)
Bhavan, Kala Nagar, Bandra (East),)
Mumbai 400 051)

2 The Executive Engineer, (Building Proposal),)
MHADA, An officer of respondent no.1)
having his office address at Building)
Permission Cell, MHADA, Bandra (East),)

Mumbai – 400 051.)
 3 Chembur Pitrukhaya Co-operative Housing)
 Society Limited)
 A Co-operative Housing Society incorporated)
 under the Maharashtra Co-operative Societies)
 Act, 1960 having its address at Building No.10,)
 Subhash Nagar, Chembur (W),)
 Mumbai – 400071)
 4 State of Maharashtra,)
 Through its Chief Secretary)
 Mantralaya, Mumbai- 400 032.) .. Respondents

WITH
 WRIT PETITION NO. 3172 OF 2022

1 SHIVAJI NAGAR SHIV-KIRAN)
 CO-OPERATIVE HOUSING)
 SOCIETY LIMITED)
 a co-operative housing society duly)
 registered under the Maharashtra)
 Co-operative Societies Act, 1960)
 bearing Registration No.)
 BOM/HSG/7839/82)
 dated 15th April 1982 and)
 having registered office at Bldg.)
 Nos. 6 and 7, Shivaji Nagar,)
 Worli, Mumbai 400 025.)
 2 SUGEE DEVELOPERS)
 PRIVATE LIMITED)
 a company incorporated under)
 the Companies Act, 1956 and)
 having its office at 3rd Floor)
 Nirlon House, Opp. Sasmira)
 College, Dr. Annie Besant Road,)
 Worli, Mumbai – 400 030) ... Petitioners

Versus

- 1 STATE OF MAHARASHTRA)
 Through the Principal Secretary)
 Urban Development Department)
 Mantralaya, Mumbai 400 032.)
- 2 MAHARASHTRA HOUSING)
 AND AREA DEVELOPMENT)
 AUTHORITY, a Statutory)
 Authority constituted under the)
 provisions of the Maharashtra)
 Housing & Area Development)
 Act, 1976 having office at Griha)
 Nirman Bhavan, Kala Nagar,)
 Bandra (East), Mumbai 400 051.)
- 3 EXECUTIVE ENGINEER)
 Building Permission Cell, Greater)
 Mumbai, MHADA, having office)
 at Griha Nirman Bhavan, Kala)
 Nagar, Bandra (East),)
 Mumbai 400 051.) ... Respondents

WITH
 WRIT PETITION NO.2090 OF 2021

- Samudra Darshan Co-operative)
 Housing Society Limited, a Co-operative)
 housing society registered under the,)
 Provisions of the Maharashtra Co-operative,)
 Society Act, 1960 having its registered,)
 Address at Building Nos.9, 12, 13, 14,)
 D. N. Nagar, Andheri (West),)
 Mumbai – 400 053.) ... Petitioner

Versus

- 1 Mumbai Housing Area Development Authority)
 A Body corporate established under)
 Section 3 of the Maharashtra Housing)

and Area Development Act 1976,)
 having its address at Grihanirman)
 Bhavan, Kala Nagar, Bandra (East),)
 Mumbai 400 051)

2 Vice President & Chief Executive Officer)
 Mumbai Housing Area Development)
 Authority having his address at Grihanirman)
 Bhavan, Kala Nagar, Bandra (East),)
 Mumbai - 400 051.)

3 THE EXECUTIVE ENGINEER,)
 Building Permission Cell, Greater Mumbai)
 Mumbai Housing Area Development)
 Authority, an officer of Respondent No.1)
 having his office address at Grihanirman)
 Bhavan, Kala Nagar, Bandra (East),)
 Mumbai - 400 051.)

4 Samudra Darshan Gruhpravesh LLP,)
 a limited liability partnership constituted)
 under the provisions of the Limited Liability)
 Partnership Act, 2008 having its address at)
 B-106, Concord, 2nd Lane, Lokhandwala)
 Complex, Andheri (West), Mumbai - 400 053.)

5 The State of Maharashtra,)
 Through its Urban Development Department))
 Mantralaya, Mumbai) .. Respondents

WITH
 WRIT PETITION (L) NO. 20727 OF 2022

1 New Siddharth Nagar Pancham C0-)
 operative Housing society under the)
 provisions of Maharashtra co-operative)
 societies Act, 1960 situate at plot)
 bearing CTS No. 356(part) village)

- Pahadi, Goregaon, Siddharth Nagar)
 Goregaon (West) Mumbai 400 104)
 2 Oxford Planet realty LLP limited)
 liability partnership firm having its)
 registered office at 7, Shiv Sagar co-)
 operative Housing Society sector -1,)
 Charkop Kandivali West, Mumbai 400)
 067) ... Petitioners
- Versus
- 1 Mumbai housing Area development)
 authority, a body corporate established)
 under section 3 of the Maharashtra)
 Housing and area development Act,)
 1976, having its address at Grihnirman)
 Bhavan, Kala Nagar, Bandra (East),)
 Mumbai 400 051)
- 2 Vice president and chief executive)
 officer Mumbai Housing Area)
 Development authority having his)
 address at Grihnirman Bhavan, Kala)
 Nagar, Bandra (East), Mumbai 400 051)
- 3 Building Permission Cell, Greater)
 Mumbai, Mumbai Housing Area)
 Development Authority, through)
 executive engineer (B.P Cell) Greater)
 Mumbai / MHADA having its office at)
 Grihanirman Bhavan, Kala Nagar,)
 Bandra (East), Mumbai 400 051)
- 4 The State of Maharashtra)
 through the secretary, urban)
 development department, Mantralaya)
 Mumbai 400 032) ... Respondents

WITH
 WRIT PETITION (L) NO. 20899 OF 2022

- STAR RAISE)
 A partnership Firm having its address at Office)
 No.34, 2nd Floor, Sayba Palace, New Mill)
 Road, Kurla (West), Mumbai – 400 024.)
)...PETITIONER

VERSUS

- 1 THE MAHARASHTRA HOUSING AREA)
AND DEVELOPMENT AUTHORITY)
A Body corporate established under Section 3)
of the Maharashtra Housing and Area)
Development Act 1976, having its address at)
Grihanirman Bhavan, Kala Nagar, Bandra)
(East), Mumbai 400 051.)
 - 2 THE EXECUTIVE ENGINEER, (BUILDING)
PROPOSAL), MHADA)
An officer of Respondent No.1 having his)
office address at Building Permission Cell,)
MHADA, Bandra (East), Mumbai – 400 051.)
 - 3 TILAK NAGAR PRAGATI CO-)
OPERATIVE HOUSING SOCIETY)
LIMITED)
A co-operative housing society)
incorporated under the Maharashtra Co-)
operative Societies Act, 1960 having its)
address at 36/1, Tilak Nagar, Chembur,)
Mumbai – 400 089.)
-)... RESPONDENTS

WITH

WRIT PETITION NO. 216 OF 2019

- 1 Rajendra Nagar Siddhivinayak)
Co-operative Housing Society Limited)
a society registered under the provisions)
of the Maharashtra Co-operative Societies)
Act, 1960 bearing registration no.)
BOM/WR/HSG/(OH)/3520/1988-89)
Having its registered address at)
20/344, Rajendra Nagar, MHB Colony)
Borivali (East), Mumbai – 400066)
- 2 M/s Triumph Ventures)
Partnership firm registered under the)
Provisions of the Indian Partnership Act,)

1932, having registered office at 1/)
 Chintamani Plaza, Ground floor,)
 Andheri Kurla Road, Andheri (East),)
 Mumbai 400099 through its partner)
 Mr. Rajiv Anant Shah, Karta of Rajiv)
 Anant Shah HUF) Petitioners

Versus

1 The State of Maharashtra,)
 through the Urban Development)
 Department, having its office at)
 Mantralaya, Mumbai – 400032.)

2 The Municipal Corporation of Greater)
 Mumbai, a statutory corporation established)
 and constituted under the provisions of the)
 Mumbai Municipal Corporation Act, 1888,))
 having its office at Annexe Building,)
 Mahapalika Marg, Mumbai - 400 001.)

3 Maharashtra Housing and Area)
 Development Authority,)
 an authority established and constituted)
 under the provisions of the Maharashtra)
 Housing and Area Development Act, 1976,))
 having its office at Griha Nirman)
 Bhavan, Kala Nagar, Bandra (East),)
 Mumbai 400 051.) Respondents

WITH
 WRIT PETITION NO. 2818 OF 2016

1 Chembur Brindavan Co-operative Housing)
 Society Ltd.,)
 A Co-operative Housing Society registered)

- Under the provisions of Maharashtra)
 Cooperative Societies Act, 1960,)
 having its registered office at)
 “Brindavan”, Plot No. 92, 3rd Road,)
 Chembur, Mumbai 400 071)
- 2 M/s. Mahavir Enterprises,)
 Through its Partners,)
 Mr. Dhiren M. Gala)
 A partnership firm carrying on business)
 At 5, Saras Baug, S.T. Road, Deonar)
 Mumbai 400 088) Petitioners

Versus

- 1 State of Maharashtra,)
 Through the Urban Development)
 Department, Government of Maharashtra)
 Though office of government Pleader,)
 High Court, (O.S.) Bombay,)
 PWD Building, Fort, Mumbai 400 001)
- 2 Municipal Corporation of Greater Mumbai)
 Having its office, Mahapalika Marg,)
 M.G. Road, Fort, Mumbai 400 001)
- 3 Executive Engineer, (Building Proposals),)
 (Building Proposal) E.S.-1,)
 Municipal Corporation of Greater Mumbai)
 Near Raj Legacy, Paper Mill Compound)
 L.B.S. Marg, Vikhroli (West),)
 Mumbai 400 083) Respondents

WITH
 WRIT PETITION NO. 2536 OF 2017

- 1 Divisha Developers 2645 LLP)
 a limited liability partnership)
 duly registered under the provisions of the)
 Limited Liability Partnership Act, 2008)

having their registered address at)
 2nd floor, J.K. Somani Building)
 British Hotel Lane, Fort, Mumbai 400 001.)
 And another address at)
 J-101, Nisarg, Opp. Panchsheel Height)
 Mahavir Nagar, Kandivali (West))
 Mumbai – 400 067.)

2 Rajendra Kapurchand Shah)
 of Mumbai, Indian Inhabitant)
 Partner of the petitioner no.1)
 having his officer at)
 2nd floor, J.K. Somani Building,)
 British Hotel Lane, Fort, Mumbai 400 001.)
 And another address at)
 J-101, Nisarg, Opp. Panchsheel Height)
 Mahavir Nagar, Kandivali (West))
 Mumbai – 400 067.)

Versus

1 State of Maharashtra)
 through its Urban Development Department)
 Mantralaya, Mumbai 400 032.)

2 Municipal Corporation of Gr. Mumbai)
 through the Municipal Commissioner,)
 having its Head Officer at Mahapalika Bhavan)
 Mahapalika Marg, Opp. Azad Maidan)
 Mumbai 400 001.)

3 Maharashtra Housing and Area)
 Development Authority)
 having its office at : Griha Nirman Bhavan)
 Kalanagar, Bandra (East))
 Mumbai 400 051.)

4 Raturaj Vasant Co.Op Housing Society Ltd.)
 a society registered under the provisions of)
 Maharashtra Co-operative Societies Act, 1960)
 having its address at Building No.22,)

MHB Colony Nagar, Borivali (West))
 Mumbai - 400091.)

WITH
 WRIT PETITION (L) NO.22696 OF 2022

- 1 Kaustubh Construction Pvt. Ltd.)
 A company registered under the Companies)
 Act, 1956, having its registered address at)
 401, 4th Floor, Gundecha Solitaire,)
 Magathane, Borivali (East),)
 Mumbai 400 066)
- 2 Charkop Ravi Kiran Co-operative Housing)
 Society Ltd.)
 A co-operative housing society incorporated)
 under the Maharashtra Co-operative Societies)
 Act, 1960, having its address at)
 C.T.S.No. 1C/1/167 of Village Kandivali)
 Plot No. 216, RDP-8, Sector-4,)
 Charkop, Kandivali (W), Mumbai – 400 067) Petitioners

Versus

- 1 The State of Maharashtra,)
 Through its Urban Development Department))
 having its office at Mantralaya, Madam)
 Cama Road, Hutatma Rajguru Square,)
 Nariman Point, Mumbai – 400 032)
- 2 The Maharashtra Housing Area and)
 Development Authority,)
 A statutory corporation established under)
 section 3 of the Maharashtra Housing and)
 Area Development Act, 1976)
- 3 The Executive Engineer,)
 Building Permission Cell, Greater Mumbai)
 (WS), MHADA,)
 An officer of the Respondent No.2 Both)
 having their address at MHADA,)

Grihanirman Bhavan, Kalanagar, Bandra)
 (East), Mumbai 400 051) ... Respondents

WITH
 WRIT PETITION (L) NO.23017 OF 2022

1 Pantnagar Ashirwad Co-op. Housing Society Ltd.)
 formed under the Provisions of the Maharashtra)
 Co-operative Societies Act, 1960 bearing)
 Registration No.BOM/HSG/7791/82,)
 having its registered office at Building No.106,)
 Sahakar Market, Pant Nagar, Ghatkopar East,)
 Mumbai – 400 075.)

2 M/s. Shreedham Developers, a partnership)
 firm registered under the provisions of Indian)
 Partnership Act, 1932, having office at 1205,)
 Universal Majestic, Opp. R.B.K. International)
 School, Chembur, Mumbai – 400 043.) ... Petitioners

Versus

1 Mumbai Housing Area Development Authority)
 A Body corporate established under)
 Section 3 of the Maharashtra Housing)
 and Area Development Act 1976,)
 having its address at Grihanirman)
 Bhavan, Kala Nagar, Bandra (East),)
 Mumbai 400 051)

2 Vice President & Chief Executive Officer)
 Mumbai Housing Area Development)
 Authority having his address at Grihanirman)
 Bhavan, Kala Nagar, Bandra (East),)
 Mumbai - 400 051.)

3 Building Permission Cell, Greater Mumbai)
 Mumbai Housing Area Development)
 Authority, through executive officer)
 (B.P. Cell) Greater Mumbai/MHADA)

having his office address at Grihanirman)
 Bhavan, Kala Nagar, Bandra (East),)
 Mumbai - 400 051.)

4 State of Maharashtra,)
 Through its Urban Development Department)
 Mantralaya, Mumbai- 400 032.) ..Respondents

WITH

WRIT PETITION NO. 2903 OF 2018

Vibrant Homes LLP)
 A limited liability Partnership,)
 Incorporated under the provisions of Limited)
 Liability Partnership Act, 2008 having its)
 registered office at V55, Dr.E.Moses Road,)
 Worli, Mumbai – 400 018) Petitioner

Versus

- 1 Municipal Corporation of Greater Mumbai)
 a body incorporated under the Mumbai)
 Municipal Corporation Act, 1888, having)
 its office at Mahapalika Road,)
 Mumbai – 400 001)
- 2 The Executive Engineer,)
 Building Proposal (City),)
 F/N Ward, MCGM Office, Near Antop)
 Hill, Wadala, Mumbai)
- 3 Maharashtra Housing and Area Development)
 Authority, a body incorporated under the)
 MHADA Act, 1976, having its office at)
 Grihanirman Bhavan, Bandra (East),)
 Mumbai – 400 051) Respondents

WITH

WRIT PETITION NO. 23555 OF 2022

M/s. PRAGATI DEVELOPERS)
 Through its duly resolved and authorized)
 Partner Mr. Teja Kesha Ravariya,)
 Age: __ years, Occ. – Business)
 Adult Indian Inhabitants,)
 Having office at, Office No. 101, J.K. Chambers,)
 Plot No. 76, Sector – 17, Vashi,)
 Navi Mumbai - 400703) ...Petitioner

Versus

1 MAHARASHTRA HOUSING AND AREA)
 DEVELOPMENT AUTHORITY (MHADA))
 Having its Head Office at, Griha Nirman Bhavan,)
 MHADA, Kalanagar, Bandra (E),)
 Mumbai - 400051)

2 BUILDING PERMISSION CELL)
 GREATER MUMBAI MHADA)
 Through Executive Engineer Building Proposal)
 Cell (Eastern Suburban))
 Having its Office at, Griha Nirman Bhavan,)
 MHADA, Kalanagar, Bandra (E),)
 Mumbai - 400051)

3 STATE OF MAHARASHTRA)
 Through Government Pleader)

4 MUNICIPAL CORPORATION OF)
 GREATER MUMBAI (MCGM))
 Having its office at, MCGM Head Office)
 Mahapalika Marg, Opp. CSMT, Fort,)
 Mumbai – 400001)

5 ASST. REGISTRAR OF CO-OPERATIVE)
 SOCIETIES, MHADA)
 Having its Office at, Griha Nirman Bhavan,)
 MHADA, Kalanagar, Bandra (E),)
 Mumbai - 400051) .. Respondents

WITH
WRIT PETITION NO. 23556 OF 2022

M/S. ELITE ASSOCIATES)
 Through Mr. Pawan Ashok Tharwani,)
 Age: __ years, Occ. – Business)
 Adult Indian Inhabitants,)
 Having office at, Building No. 62,)
 Akshay Paradise, Tilaknagar,)
 Mumbai – 400089) ...Petitioner

Versus

1 MAHARASHTRA HOUSING AND AREA)
 DEVELOPMENT AUTHORITY (MHADA))
 Having its Head Office at, Griha Nirman Bhavan,)
 MHADA, Kalanagar, Bandra (E),)
 Mumbai - 400051)

2 BUILDING PERMISSION CELL)
 GREATER MUMBAI MHADA)
 Through Executive Engineer Building Proposal)
 Cell (Eastern Suburban))
 Having its Office at, Griha Nirman Bhavan,)
 MHADA, Kalanagar, Bandra (E),)
 Mumbai - 400051)

3 STATE OF MAHARASHTRA)
 Through Government Pleader)

4 MUNICIPAL CORPORATION OF)
 GREATER MUMBAI (MCGM))
 Having its office at, MCGM Head Office)
 Mahapalika Marg, Opp. CSMT, Fort,)
 Mumbai – 400001)

5 ASST. REGISTRAR OF CO-OPERATIVE)
 SOCIETIES, MHADA)
 Having its Office at, Griha Nirman Bhavan,)
 MHADA, Kalanagar, Bandra (E),)
 Mumbai - 400051) .. Respondents

WITH
WRIT PETITION (L) NO. 24129 OF 2022

1 AL-MEHDI CO-OPERATIVE)
HOUSING SOCIETY LIMITED)
a co-operative housing society,)
registered under the provisions of)
the Maharashtra Co-operative)
Societies Act, 1960, having its)
address at S.V.P. Road, Dongri,)
Mumbai 400 009.)

2 M/S AL-HAADI DEVELOPERS)
a partnership firm registered under)
the provisions of the Indian)
Partnership Act, 1932, having its)
office at Sharif Mansion, 113-115,)
S.V.P. Road, Dongri,)
Mumbai 400 009.)

3 WASIM SIDDIQUI)
Age: Adult, Occupation: Business)
Indian citizen, partner of)
M/s Al-Haadi Developers, having)
his office at Sharif Mansion,)
113-115, S.V.P. Road, Dongri,)
Mumbai 400 009.)

... Petitioners

V/s

1 STATE OF MAHARASHTRA)
Through the Principal Secretary)
Urban Development Department)
Mantralaya, Mumbai 400 032.)

2 MUNICIPAL CORPORATION)
OF GREATER MUMBAI)
a statutory corporation incorporated)
under the Mumbai Municipal)

Corporation Act, 1888; having)
 its office at Mahapalika Marg,)
 Mumbai 400 001.)

3 MUNICIPAL COMMISSIONER)
 Municipal Corporation of Greater)
 Mumbai having office at)
 Mahapalika Marg, Mumbai 400 001) ... Respondents

WITH

WRIT PETITION NO. 572 OF 2020

1 MIG (Bandra) Realtors and Builders Pvt. Ltd.)
 a company incorporated under the provisions)
 of the Companies Act of 1956)
 having its registered office at DB House,)
 General A.K. Vaidya Marg,)
 Goregaon (East), Mumbai – 400063.)

2 Faizan Pasha)
 of Mumbai, adult Indian Inhabitant)
 Director of the petitioner no.1)
 having its office at DB House, General A.K.)
 Vaidya Marg, Goregaon (East),)
 Mumbai – 400 063.) Petitioner

Versus

1 State of Maharashtra)
 through the Urban Development Department)
 having its office at Mantralaya,)
 Mumbai - 400 032.)

2 Maharashtra Housing and Area)
 Development Authority)
 an authority established and constituted)
 under the provisions of the Maharashtra)
 Housing and Area Development Act, 1976,)
 having its office at Griha Nirman)
 Bhavan, Kala Nagar, Bandra (East),)
 Mumbai – 400 051.)

3 The Municipal Corporation of Gr. Mumbai)
 a statutory corporation established and constituted)
 under the provisions of the Mumbai Municipal)
 Corporation Act, 1888 , having its office at)
 Annex Building, Mahapalika Marg,)
 Mumbai 400 001.)

WITH
 WRIT PETITION (L) NO. 24834 OF 2022

1 SAUMYA BUILDCON)
 PRIVATE LIMITED, a company)
 incorporated under the Companies)
 Act, 1956, having its office at)
 3rd Floor, Nirlon House, Dr. Annie)
 Besant Road, Worli,)
 Mumbai 400 030.)

2 NITIN PRATAP SALUNKHE)
 Age: Adult, Occupation: Business)
 Indian citizen, Director of Saumya)
 Buildcon Private Limited, having)
 his office at 3rd Floor, Nirlon)
 House, Dr. Annie Besant Road,)
 Worli, Mumbai 400 030.) ... Petitioners

V/s

1 STATE OF MAHARASHTRA)
 Through the Principal Secretary)
 Urban Development Department)
 Mantralaya, Mumbai 400 032.)

2 MUNICIPAL CORPORATION)
 OF GREATER MUMBAI)
 a statutory corporation incorporated)
 under the Mumbai Municipal)
 Corporation Act, 1888; having)
 its office at Mahapalika Marg,)

Mumbai 400 001.)
 3 MUNICIPAL COMMISSIONER)
 Municipal Corporation of Greater)
 Mumbai having office at)
 Mahapalika Marg, Mumbai 400 001) ... Respondents

WITH
 WRIT PETITION (L) NO. 24880 OF 2021

MANGALYA CO-OPERATIVE)
 HOUSING LIMITED)
 a co-operative housing society)
 incorporated under the Maharashtra Co-)
 operative Societies Act, 1960 having its)
 address at Plot No. 15, N. S. Road No. 10) ...PETITIONER
 Ext., JVPD Scheme, Andheri West,)
 Mumbai 400 058.)

VERSUS

1 THE MAHARASHTRA HOUSING)
 AREA AND DEVELOPMENT)
 AUTHORITY)
 A Body corporate established under)
 Section 3 of the Maharashtra)
 Housing and Area Development Act)
 1976, having its address at)
 Grihanirman Bhavan, Kala Nagar,)
 Bandra (East), Mumbai 400 051.)
 2 THE EXECUTIVE ENGINEER,)
 (BUILDING PERMISSION CELL),)
 GREATER MUMBAI)
 an officer of Respondent No.1)
 having his office address at)
 Grihanirman Bhavan, Kala Nagar,)
 Bandra (East), Mumbai 400 051)
 3 ARMAAN REAL ESTATE)
 PRIVATE LIMITED)

a Company incorporated under the)
 provisions of the Companies Act,)
 1956 and validly existing under the)
 provisions of the Companies Act,)
 2013 having its registered office at)
 S-3/A, Second Floor, Prime Mall,)
 Irla CHS Ltd., Irla Society Road,)
 Vile Parle West, Mumbai 400056.) ...RESPONDENTS

WITH
 WRIT PETITION (L) NO. 24883 OF 2021

DEV LAND & HOUSING PRIVATE)
 LIMITED)
 a Company incorporated under the)
 provisions of the Companies Act, 1956 and)
 validly existing under the provisions of the)
 Companies Act, 2013 having its registered) ...PETITIONER
 office at 10th Floor, Dev Plaza, S. V. Road,)
 Andheri (West), Mumbai – 400 058.)

VERSUS

1 THE MAHARASHTRA HOUSING)
 AREA AND DEVELOPMENT)
 AUTHORITY)
 A Body corporate established under)
 Section 3 of the Maharashtra Housing)
 and Area Development Act 1976,)
 having its address at Grihanirman)
 Bhavan, Kala Nagar, Bandra (East),)
 Mumbai 400 051.)
 2 THE EXECUTIVE ENGINEER,)
 (BUILDING PERMISSION CELL),)
 GREATER MUMBAI)
 an officer of Respondent No.1 having)
 his office address at Grihanirman)
 Bhavan, Kala Nagar, Bandra (East),) ...RESPONDENTS
 Mumbai 400 051)

WITH
 WRIT PETITION (L) NO. 24885 OF 2021

OSHIWARA SATPUDA CO-)
 OPERATIVE HOUSING SOCIETY)
 LIMITED)
 a co-operative housing society)
 registered under the Maharashtra Co-)
 operative Societies Act, 1960 having its)
 address at Building No.3, Oshiwara, New)
 Link Road, Jogeshwari (West), Mumbai –)
 400 102.)

...PETITIONER

VERSUS

1 THE MAHARASHTRA HOUSING]
 AREA AND DEVELOPMENT)
 AUTHORITY)
 A Body corporate established under)
 Section 3 of the Maharashtra)
 Housing and Area Development Act)
 1976, having its address at)
 Grihanirman Bhavan, Kala Nagar,)
 Bandra (East), Mumbai 400 051.)
 2 THE EXECUTIVE ENGINEER,)
 (BUILDING PERMISSION CELL),)
 GREATER MUMBAI)
 an officer of Respondent No.1)
 having his office address at)
 Grihanirman Bhavan, Kala Nagar,)
 Bandra (East), Mumbai 400 051)
 3 DEV LAND & HOUSING)
 PRIVATE LIMITED)
 A Company incorporated under the)
 provisions of the Companies Act,)
 1956 and validly existing under the)
 provisions of the Companies Act,)
 2013 having its registered office at)
 10th Floor, Dev Plaza, S.V. Road,)
 Andheri (West), Mumbai – 400 058.)

...RESPONDENTS

WITH

WRIT PETITION NO.2615 OF 2017

1 Vinod Mohanlal Jain)
 age about 46 yrs, an adult Indian Inhabitant)

having his address at 2, Jai Bhagwan, 87)
Walkeshwar Road, Mumbai – 400 006.) ... Petitioner

Versus

1 State of Maharashtra,)
Through its Urban Development Department)
Government of Maharashtra through the office)
of Government Pleader, High Court (O.S.),)
Bombay, PWD Building, Fort, Mumbai- 400 032.)

2 Municipal Corporation of Greater Mumbai)
incorporated under the Municipal Corporation)
Act, 1888 having its office at Mahapalika Marg,)
C.S.T., Mumbai – 400 001.)

3 Ex Engineer Bldg., Proposal (City-I),)
New Municipal Building No.355B,)
Bhagwan Walmiki Chowk, Vidyalkar Marg,)
Opp. Hanuman Mandir, Salt Pan Road,)
Antop Hill, Wadala (east),)
Mumbai - 400 037) .. Respondents

WITH
WRIT PETITION (L) NO. 26984 OF 2021

DYNASTY INFRABUILDERS)
PRIVATE LIMITED)
a Company incorporated under the)
provisions of the Companies Act, 2013)
having its office at 702, Natraj, M.V.)
Road Junction, Western Express)
Highway, Andheri (East), Mumbai –)
400 069. ...PETITIONER

VERSUS

1 THE MAHARASHTRA)
HOUSING AREA AND)
DEVELOPMENT AUTHORITY)
A Body corporate established)

- under Section 3 of the)
 Maharashtra Housing and Area)
 Development Act 1976, having its)
 address at Grihanirman Bhavan,)
 Kala Nagar, Bandra (East),)
 Mumbai 400 051.)
- 2 THE EXECUTIVE ENGINEER,)
 (BUILDING PERMISSION)
 CELL), GREATER MUMBAI)
 an officer of Respondent No.1)
 having his office address at)
 Grihanirman Bhavan, Kala Nagar,)
 Bandra (East), Mumbai 400 051)
- 3 KHER NAGAR DEEP LAXMI)
 CO-OPERATIVE HOUSING)
 SOCIETY LTD., a co-operative)
 society registered under the)
 Maharashtra Co-operative)
 Societies Act, 1960 having its)
 address at Building NO. 15,)
 Khernagar, Bandra (East),)
 Mumbai – 400 051.) ...RESPONDENTS

WITH
 WRIT PETITION NO. 224 OF 2019

Samudra Darshan Co-operative)
 Housing Society Limited, a Co-operative)
 housing society registered under the,)
 Provisions of the Maharashtra Co-operative,)
 Society Act, 1960 having its registered,)
 Address at Building Nos.9, 12, 13, 14, D. N. Nagar)
 Andheri (West), Mumbai – 400 053.) ... Petitioner

Versus

1 The Municipal Corporation of Greater)
 Mumbai, a Statutory Corporation)
 Constituted under the provisions)
 of the Mumbai Municipal)
 Corporation Act, 1888 having its Address at)
 Mahapalika Marg, Mumbai - 400 001.)

2 The Municipal Commissioner having)
 his office at 1st floor, Municipal Head)
 Office Extension Building,)
 Mahapalika Marg, Mumbai-400 001.)

3 Mumbai Housing Area Development Authority)
 A Body corporate established under)
 Section 3 of the Maharashtra Housing)
 and Area Development Act 1976,)
 having its address at Grihanirman)
 Bhavan, Kala Nagar, Bandra (East),)
 Mumbai 400 051)

4 Samudra Darshan Gruhpravesh LLP,)
 a limited liability partnership constituted)
 under the provisions of the Limited Liability)
 Partnership Act, 2008 having its address at)
 B-106, Concord, 2nd Lane, Lokhandwala)
 Complex, Andheri (West), Mumbai - 400 053)

5 The State of Maharashtra,)
 Through its Urban Development Department)
 Mantralaya, Mumbai)

...Respondents

WITH
 WRIT PETITION NO. 206 OF 2015

1 Samata Nagar Co-operative Housing)
 Societies Union Limited, a)
 Federal Society registered under the)
 provisions of the Maharashtra Co-op.)
 Societies Act, 1960 and having its)
 office at 25/486, Vishwadarshan, Samta)
 Nagar, Kandivali, Mumbai – 400 0101.)

2 S.D. Corporation Private Limited,)
 a Company incorporated under the)
 Companies Act, 1956 having its)

- Registered Office at 70, Nagindas)
 Master Road, Fort, Mumbai – 400 023.)
- 3 Mr.Shrikant Chavan,)
 C/o SP Centre, 41/44, Minoo)
 Desai Marg, Colaba,)
 Mumbai – 400 005) Petitioners

VERSUS

- 1 The Municipal Corporation of Greater)
 Mumbai having its Office at 1,)
 Mahapalika Marg, Mumbai – 1.)
- 2 The Executive Engineer,)
 (Building) Proposal, Municipal)
 Corporation of Greater Mumbai,)
 G Ward, Kandivali, Mumbai.)
- 3 Maharashtra Housing & Area)
 Development Authority, an Authority)
 established and constituted under the)
 Maharashtra Housing & Area)
 Development Authority Act, 1976,)
 having its address at Griha Nirman)
 Bhavan, MHADA, Bandra (E))
 Mumbai – 400 051.)
- 4 State of Maharashtra,)
 Through the Government Pleader,)
 High Court, Mumbai.)..... Respondents

WITH
 WRIT PETITION NO.38 OF 2022

- (1) M/s. Shree Mahavir Estate Ameya, a)
 partnership firm duly registered under the)
 provisions of the Indian Partnership Act,)
 1932, and having its principal place of)
 business at Podium, Office no. 2, Aditya)

'A' Wing, Gulmohar Cross Road No. 7,)
 Juhu Vile Parle Development Scheme,)
 Mumbai 400049.)

(2) Mr.SNEHAL M PATEL)
 adult, of Mumbai, Indian Inhabitant, a)
 partner of the Petitioner No. 1, having his)
 address at Podium, Office no. 2, Aditya 'A')
 Wing, Gulmohar Cross Road No. 7, Juhu)
 Vile Parle Development Scheme, Mumbai)
 400049.)...Petitioners
 Versus

(1) Union of India, through the Secretary,)
 Ministry of Civil Aviation, Corporate)
 Headquarters, Rajiv Gandhi Bhavan,)
 Safdarjung Airport, Block-B, New Delhi)
 110003; and also at Aayakar Bhavan, 2nd)
 floor, Maharshi Karve Road, New Marine)
 Lines, Mumbai – 400 020.)

(2) Airports Authority of India, Western)
 Region, Headquarters, having its office at)
 Opposite Parsiwada, Sahar Road Vile Parle)
 East, Mumbai 400 099.)
 (3) General Manager (A.T.M), Western)
 Region, Airports Authority of India,)
 having his office at Opposite Parsiwada,)
 Sahar Road Vile Parle East, Mumbai)
 400099.)

(4) The Maharashtra Housing and Area)
 Development Authority, a body corporate)
 established under Section 3 of the)
 Maharashtra Housing and Area)
 Development Act 1976, having its address)
 at Grihanirman Bhavan, Kala Nagar,)
 Bandra (East), Mumbai 400 051.)

(5) Ameya Co-operative Housing Society)
 Limited, a co-operative housing society)

incorporated under the Maharashtra Co-)
 operative Societies Act, 1960 having its)
 address at Building no. 1, D. N. Nagar,)
 Andheri (West), Mumbai 400053.)...Respondents

WITH
 WRIT PETITION (L) NO. 29612 OF 2021

SHREE SURAJ RESOURCES LIMITED)
 A company registered under the provisions)
 of the Companies Act, 1956 and deemed to)
 have been registered under the Companies)
 Act, 2013 having its address at address at)
 14/A, Paper Box Estate, Mahakali Caves)
 Road, Andheri (East), Mumbai – 4000093.) ...PETITIONER

VERSUS

- 1 THE MAHARASHTRA HOUSING)
 AREA AND DEVELOPMENT)
 AUTHORITY)
 A Body corporate established under)
 Section 3 of the Maharashtra Housing)
 and Area Development Act 1976,)
 having its address at Grihanirman)
 Bhavan, Kala Nagar, Bandra (East),)
 Mumbai 400 051.)
- 2 THE EXECUTIVE ENGINEER,)
 (BUILDING PROPOSAL),)
 GREATER MUMBAI)
 An officer of Respondent No.1)
 having his office address at Building)
 Permission Cell, Greater Mumbai,)
 MHADA, Bandra (East), Mumbai –)
 400 051.)
- 3 LALIT KUTIR CO-OPERATIVE)
 HOUSING SOCIETY)
 A co-operative housing society)

incorporated under the Maharashtra)
 Co-operative Societies Act, 1960)
 having its address at Building No. 10,)
 Maharashtra Housing Board Colony,)
 J.V.P.D. Scheme, Andheri (West),)
 Mumbai – 4000 058.) ...RESPONDENTS

WITH
 WRIT PETITION NO. 989 OF 2018

Urbania Realty LLP,)
 Having their registered office at 201)
 Plot No. 15, Megor Arcade,)
 Ghatkopar (E), Mumbai 400 077) Petitioners

Versus

1 State of Maharashtra,)
 Urban Development Department,)
 Through the office of the Government)
 Pleader, Bombay High Court, (O.S.))
 PWD Building, Fort, Mumbai 400 001)
 2 Municipal Corporation of Greater Mumbai)
 Legal Department, , Mahapalika Marg,)
 M.G. Road, fort, Mumbai 400 001)
 3 Ex. Engineer, Building Proposals, (City))
 G/North Ward, Municipal Corporation of)
 Greater Mumbai, 11 JK Sawant Marg)
 Kasaravadi Dadar, Mumbai 400 028) ... Respondents

WITH
 WRIT PETITION NO. 597 OF 2018

Vaidehi Akash Realtors Pvt. Ltd.)
 A company registered under the provisions)
 of Companies Act, 1956, having its office)
 at 101, D.N. Nagar, Saptarshi C.H.S. Ltd.,)
 Barfiwala College Lane, D. N. Nagar,)
 Andheri (West), Mumbai – 400 053.)Petitioner

VERSUS

- 1 The State of Maharashtra,)
Through Senior Inspector of Police)
Station, D.N. Nagar Andheri (W),)
Mumbai – 400 053.)
- 2 The Municipal Corporation for Greater)
Bombay, having its office at)
Mahapalika Bhavan, Mahapalika)
Marg, Fort, Bombay – 400 001.)
- 3 Assistant Engineer (B & F)l I, II, III,/)
IV(Ward) K/West (Designated Officer),)
K/West, 6th Floor Paliram Path,)
Opp. BEST Bus Depot, Andheri (W),)
Mumbai – 400 058.)
- 4 Maharashtra Housing & Area)
Development Authority, Having)
its office at MHADA Building)
Kala Nagar, Bandra (E))
Mumbai – 400 051.) Respondents

WITH

WRIT PETITION (L) NO.25455 OF 2022

- Drushti Realtors Pvt. Ltd.)
C.A. to Pantnagar Trishul CHS Ltd.)
G-1 Terminal-9 besides Vile Parle)
Police Station/Airport, Nehru Nagar,)
Vile Parle (East), Mumbai – 400 057.) ... Petitioner

Versus

- 1 State of Maharashtra,)
Through its Government Pleader)
P.W.D. Building, High Court, Mumbai- 400 032.)
- 2 Maharashtra Housing Area)
and Development Authority)

Grihanirman Bhavan, Kala Nagar, Bandra (East),)
Mumbai 400 051)

3 The Executive Engineer/B.P. (Cell) ES Kurla)
Division Mhada Mumbai Board, 2nd Floor,)
Room No.341, Grihanirman Bhavan,)
Kala Nagar, Bandra (East),)
Mumbai 400 051) .. Respondents

WITH

WRIT PETITION NO. 3519 OF 2022

1 PRABHADEVI INDRAPRASTHA)
CO-OP. HSG. SOC. LTD.)
a cooperative housing society, registered)
under the provisions of the Maharashtra)
Co-operative Societies Act, 1960, having)
its address at MHADA Adarsh Nagar,)
Worli, Mumbai 400 030.)

2 TECHNO FRESHWORLD LLP)
A Limited Liability Partnership)
incorporated under the provisions of the)
Limited Liability Partnership Act, 2008)
and having its office at 2nd Floor, Manu)
Mansion, 16, Shahid Bhagat Singh Marg,)
Fort, Mumbai 400 001.)

3 JAYDEEP V. MEHTA)
Age: Adult, Occupation: Business)
Partner of Techno Freshworld LLP and)
having its office at 2nd Floor, Manu)
Mansion, 16, Shahid Bhagat Singh Marg,)
Fort, Mumbai 400 001.) ... Petitioners

Versus

1 STATE OF MAHARASHTRA)
Through the Principal Secretary Urban)
Development Department, Mantralaya,)
Mumbai 400 032.)

- 2 MAHARASHTRA HOUSING)
 AND AREA DEVELOPMENT)
 AUTHORITY, a Statutory Authority)
 constituted under the provisions of)
 the Maharashtra Housing & Area)
 Development Act, 1976, having office)
 at Griha Nirman Bhavan, Kala Nagar,)
 Bandra (East), Mumbai 400 051.)
- 3 EXECUTIVE ENGINEER)
 Building Permission Cell, Greater)
 Mumbai, MHADA, having office at)
 Griha Nirman Bhavan, Kala Nagar,)
 Bandra (East), Mumbai 400 051.) ... Respondents

WITH
 WRIT PETITION NO. (L) 23875 OF 2022

- 1 M/s. VS Developers)
 a partnership firm, duly registered under)
 the provisions of the Indian Partnership)
 Act, 1932, and having its office at A/503,)
 Sterling Court, Maheshwari Nagar,)
 Kondivita Road, Andheri (East), Mumbai -)
 400 093)
- 2 Mr. Sanjay Narayandas Rathi)
 adult, Mumbai Indian Inhabitant, having)
 address at A/503, Sterling Court,)
 Maheshwari Nagar, Kondivita Road,)
 Andheri (East), Mumbai 400 093) ...Petitioners

Versus

- 1 Maharashtra Housing & Area Development)
 Authority, a Statutory authority Constituted)
 under the provisions of Maharashtra)
 Housing & Area Development Act, 1976,)
 having its office at Griha Nirman Bhavan,)
 Bandra (East), Mumbai – 400 051.)
- 2 Vice President,)
 Maharashtra Housing & Area Development)

- Authority, having its office at Griha
Nirman Bhavan, Bandra (East)
Mumbai – 400051.)
- 3 Building Permission Cell, Greater Mumbai,))
Mumbai Housing Area Development)
Authority, through the Executive Engineer)
(B.P. Cell) Greater Mumbai/MHADA)
having its office at Griha Nirman Bhavan,)
Kala Nagar, Bandra (East),)
Mumbai - 400 051)
- 4 The Principal Secretary,)
Housing Department,)
Government of Maharashtra,)
Mantralaya, Mumbai.)
- 5 Municipal Corporation of Greater Mumbai,))
Having its Office at Mahapalika Bhavan,)
Mahapalika Marg, Fort, Mumbai – 400 001)
- 6 Assistant Registrar of Co-operative)
Societies (MHADA), Bandra East,)
Mumbai – 400 051)
- 7 Mr. Rajkumar Shankarrao Bhise)
- 8 Mr. Kishore Shankarrao Bhise)
- 9 Mr. Kashinath Bhadu Redkar)
- 10 Mr. Prashant Shashikant Khadpe)
Nos. 7 to 10, all being Adults, Indian)
Inhabitants, all having their address at)
in Units 1, 2 and 3, Building No. 1/1 – 2 – 3,))
Kannamwar Nagar 1, (MHADA),)
Vikhroli (East), Mumbai - 400 083.)
- 11 The State of Maharashtra,)
through its Urban Development)
Department, Mantralaya, Mumbai.) ...Respondents

Dr. Milind Sathe, Senior Advocate along with Mr. Bhushan Deshmukh, Mrs. Jasmine Kachalia, Mr. Deepu Jojo, and Mr. Aryan Srivastava i/by M/s. Wadia Ghandy & co for the Petitioners in WP/1334/2019.

Dr. Milind Sathe, Senior Advocate along with Mr. Saket Mone, Mr. Subit Charkraborti, Mr. Devansh Shah, Mr. Abhay Jariwala, i/by M/s. Vidhii Partners, for the Petitioners in WP/1937/2016.

Mr. Saket Mone along with Mr. Subit Chakrabarti, Mr. Devansh Shah and Mr. Abhay Jariwala i/by M/s. Vidhii Partners, for the Petitioners in WPL/17580/2022.

Mr. Rohaan Cama along with Mr. Pheroze Mehta, Mrs. Jasmine Kachalia, Mr. Deepu Jojo and Mr. Aryan Srivastava, Mr. Suneet Tyagi, Mr. Sandeep Patil, Ms. Pooja Singhvi i/by M/s. Wadia Ghandy & co for the Petitioners in WP/1679/2017.

Mr. M. M. Vashi, Senior Advocate i/by Ms. Ria Jain, for the Petitioners in WPL/14032/2022.

Mrs. Jasmine Kachalia along with Mr. Aryan Srivastava and Mr. Deepu Jojo i/by M/s. Wadia Ghandy & co for the Petitioners in WP/605/2017 and WP/216/2019.

Ms. Ria Jain for the Petitioners in WPL/18290/2022.

Mr. Mukesh M. Vashi, Senior Advocate along with Mr. Jayneel Vashi i/by M/s. M.P. Vashi & Associates for the Petitioners in WPL/8126/2022, WP/122016/2022, WP/12212/2022, WPL/20727/22 and WPL/14032/22.

Mr. Rahul Hingmire along with Mr. Chirag Bhavsar along with Ms. Aarti Sonawane i/by M/s. VIS Legis Law Practice Advocate for the Petitioners in WPL/20227/2022.

Mr. Aditya Shiralkar along with Mr. Vijay Poojari i/by M/s. Shiralkar & Co. for the Petitioners in WP/822/2017, WP/920/2017 and WP/2351/2022.

Mr. Sanjiv Sawant along with Mr. Heramb Kadam and Mr. Pankaj Kode, for the Petitioners in WPL/4992/2022.

Mr. Pravin Samdani, Senior Advocate along with Mr. Amogh Singh, Mr. Nivit Srivastava and Mr. Viraj Maniar along with Ms. Sneha Patil, Mr. Saurabh Kshirsagar and Ms. Nidhi Asiwai i/by Maniar Srivastava Associates for the Petitioners in WPL/704/2022, WPL/998/2022, WPL/7180/2022, WPL/7581/2022, WPL/8142/2022, WPL/8722/2022, WPL/8731/2022, WPL/8733/2022, WPL/17473/2022, WPL/17478/2022, WPL/17485/2022, WPL/17501/2022, WPL/18252/2022, WP/404/2017, WP/2090/2021, WPL/24880/2021, WPL/24883/2021, WPL/24885/2021, WPL/26984/2021, WP/38/2022, WPL/29612/2021, WP/544/2018, WP/311/2018, WP/114/2018, WP/102/2021, WP/224/2019 AND Respondent No.4 in WP/1360/2021 and WP/3018/2021.

Mr. Santosh Pathak along with Ms. Archana Karmokar, Mr. Nimish Lotilkar and Mr. Kailash Pathak i/by M/s. Law Origin for the Petitioners in WPL/18755/2022 and WPL/18616/2022.

Mr. Arun Panickar, for the Petitioners in WP/2767/2022, WP/1360/2021, WP/3018/2021 and WPL/8279/2022 and Respondent No.4 in WPL/704/2022, WP/20290/2021 and Respondent No.3 in WPL/24885/2021.

Mr. Divesh Chamboowala i/by Mr. Pradip Kadam, for the Petitioners in WPL/16598/2022 and WPL/22696/2022.

Mr. Dipen Furia and i/by M/s. Shah and Furia Associates for the Petitioners in WP/2615/2017.

Ms. Tulsi Shah along with Ms. Ayesha Khatri i/by Mr. Akash Shah, for the Petitioners in WP/8447/2022, WP/12361/2022, WP/18181/2022, WP/9685/2022, WP/14321/2022, WP/20899/2022, WP/9667/2022, WP/14328/2022, WP/14484/2022.

Mr. Sanjay Kadam along with Mr. Sanjeel Kadam, Ms. Sayalee Rajpurkar, Nitisha Lad i/by M/s. Kadam & company for the Petitioners in WP/2193/2022, WP/1492/2016, WP/3172/2022, WPL/24129/2022, WPL/24834/2022 and WP/3519/2022.

Ms. Huda Diamondwala i/by M/s. Diamondwala and co., for the Petitioners in WP/2716/2017 and WP/2363/2017.

Mr. Saket Mone along with Mr. Subit Chakrabarti, Mr. Devansh Shah, Mr. Abhay Jariwala i/by M/s. Vidhii Partners, for the Petitioners in WP/1314/2016, WP/2818/2016, WPL/17633/2022, WPL/17675/2022, WP/2247/2016, WP/1068/2016, WP/1000/2016, WP/1226/2016, WP/989/2018, WP/1705/2018, WP/2985/2018 and WP/3381/2018.

Mr. Mayur Khandeparkar along with Mr. Anand Pai, Mr. Ativ Patel , Ms. Viloma Shah, Mr. Darshit Dave, Mr. Harshad Vyas i/by M/s.AVP Partners for the Petitioners in WPL/16659/2022.

Ms. Rujuta Patil i/by M/s. Negandhi Shah & Himayatullah, for the Petitioners in WP/550/2017.

Mr. Makarand Kale i/by Mr. Govinda Gupta, for the Petitioners in WPL/23017/2022.

Mr.Girish Godbole along with Mr. Bhushan Deshmukh and Ms. Monisha Mane Bhangale and Ms. Nikita Menon i/by M/s. Parinam Law Associates, for the Petitioners in WPL/9673/2022.

Mr. Tejesh Dande along with Mr.Bharat Gadhavi, Mr. Vishal Navale, Mr. Aniket Aghade, Mr. Chinmay Deshpande, Ms. Trushna Shah and Mr. Vikrant Khare and Mr.Krupanshu Nandu i/by M/s. Tejesh Dande & Associates, for the Petitioners in WPL/4266/2022, WPL/2816/2022.

Mr.Bhushan Deshmukh and Ms. Mamta Harwani, Ms. Miloni Gala i/by Mr. Dhiren Shah, for the Petitioners in WPL/19781/2022 and WP/138/2022.

Mr. Dhiren H. Shah along with Ms.Miloni Gala, Ms. Nikita Ghungarde i/ by Mr. Dhiren H. Shah for the Petitioners in WP/2488/2022.

Ms. Miloni Gala along with Ms. Mamta Harwani i/by Mr. Dhiren H.Shah, for the Petitioners in WPL/23875/2022.

Mr. Ashwin Sawlani along with Mr. Viraj Jadhav i/by Ms. Reena Salunke, for the Petitioners in WP/1996/2016, WP/1997/2016 and WP/2000/2016.

Mr. Ashwin Sawlani along with Mr. Viraj Jadhav i/by Mr. Chinmay Acharya for the Petitioners in WP/2903/2018.

Mr. Chirag H. Mody along with Mr. Sridhar K. Chari for the Petitioners in WP/2536/2017.

Mr. Hamid Ahmad along with Ms. Asha Nair i/by M/s.MZ and Associates, for the Petitioners in WPL/25455/2022.

Mr.Nilesh Pandey a/w Mr.Shekhar Pal, Ms.Priyanka Dubey i/by Equa Juris in WPL/23555/2022 and WPL/23556/2022.

Mr.K.D. Jha for the petitioner in WP/2988/2022.

Mr. Aspi Chinoy, Senior Advocate along with Mr.Joel Carlos i/by Ms.Oorja Dhond and Mr. Sunil K. Sonawane, for the Respondents, BMC, in WP/1334/2019.

Mr Ashutosh Kumbhakoni, Advocate Genral along with Mr. P.G. Lad and Mr. Akshay Shinde, Ms. Sayli Apte, Ms. Shreya Shah for the Respondents -MHADA.

Mr. Ashutosh Kumbhakoni, Advocate General along with Mr. Akshay Shinde for Respondent No.3 in WP/2038/2016 and WPL/8731/2022, WPL/8733/2022, WPL/23555/2022, WP/2090/2021, WPL/7581/2022, WPL/8279/2022, WPL/14328/2022, WPL/18252/2022, WPL/9673/2022, WPL/9667/2022, WPL/9685/2022, WPL/14321/2022, WPL/14032/2022, WPL/20899/2022,WPL/12707/2022, WPL/12361/2022, WPL/8447/2022, WPL/14484/2022, WPL/17485/2022, WPL/17473/2022, WPL/17478/2022, WPL/17501/2022, WP/8142/2022, WP/8722/2022 and WP/8731/2022.

Mr. Akshay Shinde for Respondent for the Respondent Nos. 1 and 2 in WP/2090/2021 – MHADA.

Mr. N.V. Walawalkar, Senior Advocate along with Ms. Oorja Dhond for the Respondent, M.C.G.M. in WP/2193/2022.

Mr. Joaquim Reis, Senior Advocate along with Bernard Reis, Mr. Joel Carlos, Ms. Oorja Dhond and Mr. Abhijeet Joshi i/by Mr. S. K. Sonawane, for the Respondent in WPL/17580/2022- M.C.G.M.

Mr. Ashutosh Kumbhakoni, Advocate General along with Mr. Akshay Shinde, Ms. Sneha Bhange, Ms. P. H. Kantharia, Government Pleader, along with Mr. Abhay L. Patki, Addl Government Pleader and Mr. Milind More, Addl Government Pleader, Mr. Laxmikant Satelkar, AGP, Ms. Jyoti Chavan, AGP, State, Ms. Uma Palsuledesai, AGP, state, Mr. Hemant Haryan, AGP, state, Mr. Himanshu Takke, AGP, Mr. Sukanta Karmakar, AGP, Mr. Kedar Dighe, AGP, Mr. Amit Shastri, AGP, state, Mr. S. B. Gore AGP, Mr. M.A. Saiyed AGP, state and Mr. Dushyant Kumar, AGP, Mr Manish Upadhye, AGP, State for the Respondents.

Mr. Y. R. Mishra for the Respondents – UNION OF INDIA.

Mr. T.D. Deshmukh along with Mr. H.D.Chavan, in WP/1360/221, WP/138/2022, WPL/704/2022, WPL/998/2022, WPL/2816/2022, WP/2767/2022, WPL/4266/2022, 2PL/4922/2022, WPL/7581/2022, WPL/8279/2022, WPL/8447/2022, WPL/9667/2022, WPL/9673/2022, WPL/9685/2022, WPL/12361/2022, WP/2488/2022, WP/2351/2022, WPL/13515/2022, WPL/14032/2022, WPL/14321/2022, WPL/14328/2022, WPL/14484/2022, WPL/17473/2022, WPL/17478/2022, WPL/17485/2022, WPL/17501/2022, WPL/18252/2022 AND WP/3018/2021 – for MHADA.

Mr. Kamlesh Ghumre along with Ms. Sonali Jadhav Krishna Eppar, for the Respondent NO.2 in WP/1816/2016 – MHADA.

Mr. Jagdish G. Aradwad (Reddy) for the Respondent Nos.2 and 3 -SRA in WP/1937/2016.

**CORAM: R. D. DHANUKA AND
KAMAL KHATA, JJ.**

**RESERVED ON : 12TH AUGUST, 2022
PRONOUNCED ON : 20TH OCTOBER, 2022**

JUDGMENT (Per R.D.Dhanuka, J.):-

1. Rule. Learned counsel for the respondents waives service. Rule is made returnable forthwith. By consent of parties, this batch of petitions were heard together and are being disposed off by a common

order. The parties have agreed that Writ Petition No.1334 of 2019, Writ Petition No.8126 of 2022, Writ Petition (L) No.704 of 2022 and Writ Petition (L) No.9673 of 2022 would be considered as the lead matters, in view of there being identical questions of law having arisen in all these petitions. Learned counsel for the parties in these writ petitions have addressed this Court on behalf of their respective clients. In rest of the matters, the petitioners have adopted the submissions made by the learned counsel for the petitioners in the lead matters and the respondents have adopted the submissions advanced by the learned counsel for the respondents in lead matters. Some of the relevant facts in Writ Petition No.1334 of 2019 are as under :

Facts in Writ Petition No.1334 of 2019

2. By this writ petition filed under Article 226 of the Constitution of India, the petitioners have prayed for a declaration that the petitioners are exempted from levy, imposition, demand and recovery of development charges by the respondent no.2 i.e. the Municipal Corporation, Greater Mumbai under section 124F of the Maharashtra Regional Town Planning Act, 1966 (for short "the said MRTP Act") in respect of the development / redevelopment of the property being developed by the petitioners and that any such levy, imposition, demand and recovery in respect thereof is illegal, contrary to law, without jurisdiction and without authority of law. The petitioners have also prayed for a writ of certiorari for quashing and setting aside the levy, imposition, demand and recovery of development charges by the Municipal Corporation pertaining to the writ property including the impugned Development Charges of Rs.4,22,94,300/- as demanded in the impugned demand notices issued by the Corporation.

3. The petitioners have also prayed for a writ of mandamus directing the Municipal Corporation to issue fresh demand notices in respect of the development / redevelopment of the writ property without levy, imposition, demand and recovery of development charges under section 124A of the MRTP Act and seeks refund of Rs.4,22,94,300/- paid by the petitioners as Development Charges under protest till the date of realization.

4. The petitioners are developing the land admeasuring 8200.87 sq. mtrs. Bearing CTS No.441 (part), 442 (part), 452 (part), 453 (part), 455 (part) and 456 (part) of Parel Sewree Division, D.G. Mahajani Road and Rafi Ahmed Kidwai Marg, F/S Ward, Mumbai 400 015 (for sake of convenience hereinafter referred to as "writ land").

5. It is the case of the petitioners that the respondent no.2 is the owner of the said writ land. Prior to 1940, the respondent no.2 developed the portion of the land constructing 10 chawls and tenaments (hereinafter referred to as "the said structures"). The said land and the said structures are collectively referred to as the writ property. The members of the said chawls formed the petitioner no.1 society.

6. It is the case of the petitioners that the said writ property was in a dilapidated condition and required urgent repairs and reconstruction. Some time in the year 2008, the petitioner no.1 society granted redevelopment rights of the said property to the petitioner no.2 i.e. Coventry Properties Private Limited on the terms and conditions set out in the said redevelopment agreement. The petitioner no.2 proposed to develop the said property under Regulation 33(7) of the Development Control Regulation, 1991 (hereinafter referred to as "DCR 1991").

7. On 8th December, 2016, the respondent no.2 issued inventory list as Annexure-II of the tenants and chawls/ members of the petitioner no.1 society appearing on the rent receipts, which according to the petitioners and the respondent no.2 are eligible for the benefits under redevelopment of the said property. The petitioners had made an application for issuance of such inventory list to the respondent no.2 Corporation.

8. On 1st March, 2018, the respondent no.2 Corporation issued a Letter of Intent sanctioning development / redevelopment of the writ property under Regulation 33(7) of DCR, 1991. According to the petitioners, the petitioners were required to hand over 2390.84 sq. mtrs. in the form of "flats" to the respondent no.2 Corporation under the said Letter of Intent and to pay Rs.134,65,24,704/- as a condition for granting the Letter of Intent to the Municipal Corporation.

9. The respondent no.2 agreed to lease the writ land to the petitioner no.1 for the period of 30 years with an option to renew only at the discretion of the Municipal Corporation. In the said Letter of Intent, it was recorded that the said land and the said structures vested with and were owned by the respondent no.2 Corporation. It was provided in the said Letter of Intent that the respondent no.2 Corporation would issue a no objection certificate for commencement of the construction of the said land and in the event of breach, the respondent no.2 shall have the power to cancel the said Letter of Intent and all the permissions granted with respect to the said project.

10. It is the case of the petitioners that in the property card in the said writ land, the name of the respondent no.2 is reflected as owner thereof. The petitioner no.2 is constructing a composite building for

Rehabilitation component with 3 wings, a free sale component with 3 wings and an area for Respondent no.2 with 1 wing, i.e., Building no.1 on Plot no.A of the said land. The petitioner no.2 is also constructing a building no.2 comprising of a free sale component on plot no.B of the said land. On 19th June, 2018, the respondent no.2 Corporation issued an IOD to undertake the development of building no.1, on plot no.A. On 13th September, 2018 and 12th November, 2018, the respondent no.2 issued its amended approvals for the development of plot no.B of the said land.

11. Thereafter on 20th June 2018, the respondent no.2 issued another IOD for the development of building no.2 on Plot no.B of the said land. Thereafter on 23rd January 2019, the respondent no.2 issued several demand letters levying development charges of Rs.7,94,09,350/-. Thus, the petitioners filed this writ petition on 27th February 2019 for various reliefs. On 5th April 2019, this Court granted an ad-interim relief in this petition in terms of prayer clause (f) on the condition that the petitioners would deposit 50% of the development charges with the Prothonotary and Senior Master of this Court as per the demand notices within two weeks from the uploading of this order and to furnish a bank guarantee to the Respondent no.2 for the remaining amount of 50%.

12. It is the case of the petitioners that, as per the joint measurements carried out by the petitioner no.2 and the District Superintendent of Land Records, the actual area of the said land came to be 8354 sq.mtrs. The petitioner no.2 applied to the respondent no.2 for the amended Letter of Intent (LOI). On 17th February 2020, the respondent no.2 issued a revised LOI and reconfirmed the fact that the said land is owned by the respondent no.2. According to the revised

LOI, the petitioner is directed to hand over 2441.76 sq.mtrs. in the form of flats to the respondent no.2. The respondent no.3 would receive Rs.139,02,12,693/- as capitalized value as a condition for grant of the LOI.

13. It was further provided that only upon compliance of the conditions stated in LOI, the respondent no.2 will issue an NOC for commencement of construction on the said land and in the event of breach, the respondent no.2 shall have the power to cancel the said revised LOI and all permissions with respect to the project. On 9th April 2020, the petitioner no.2 applied to the respondent no.2 for amendment of plans. On 25th April 2020, the respondent no.2 approved the amended plans. On 18th June 2020, the respondent no.2 issued a fresh demand notice levying development charges of Rs.3,98,66,300/-. The petitioners thereafter filed an interim application No.2069 of 2021 in this writ petition. On 7th August 2020, during the pendency of the said interim application, the petitioners paid development charges of Rs.3,98,66,300/- under protest. On 11th August 2020, the interim application came to be disposed off. On 18th December 2020, the respondent no.2 raised a demand notice levying development charges of Rs.24,28,000/-. On 21st December 2020, the petitioners paid the said development charges of Rs.24,28,000/- under protest.

14. Some time in the month of September 2021, the petitioners filed an interim application bearing No.2138 of 2021 for seeking an amendment in the writ petition for bringing the subsequent events on record including the impugning of the fresh demand notices and seeking a prayer for refund of the monies paid under protest. On 30th June 2022, this Court allowed the said interim application and permitted the petitioners to carry out the amendment. This Court admitted the said

amended writ petition.

**Submissions of Dr.Sathe, learned senior counsel
for the petitioners in WP 1334 of 2019:-**

15. Dr.Sathe, learned senior counsel for the petitioners invited our attention to various documents annexed to the writ petition, affidavit-in-reply filed by the respondents. It is submitted that levy of development charge for the subject property is *dehors* the mandate of Section 124A read with Section 124F of the MRTP Act and thus without any authority of law. He submitted that Section 124A of the MRTP Act being the charging section provides that development charges shall be levied by the Planning Authority on "institution of use or change of use or development of any land or building" for which permission is required under the MRTP Act in terms of Sections 43, 44 and 45 thereof.

16. It is submitted that Section 124 F of the MRTP Act clearly provides that for applicability of the said exemption provision, there should be institution of use or change of use or development of any land or the building which is (i) vested in or (ii) under the control of or (iii) in the possession of the Central Government or State Government or Local Authority.

17. Learned senior counsel placed reliance on the definition of "local authority" under Section 2(15) of the MRTP Act. He submitted that it is admitted by the respondents that the land on which "development" is undertaken belongs to Municipal Corporation which is specifically mentioned in the definition of "local authority" under the MRTP Act. The land is being developed by the petitioner no.2 as the developer under Regulation 33(7) of the Development Control Regulations for Greater Mumbai, 1991 (for short "the DCR"). He submitted that in the LOI dated

1st March 2018 and Revised LOI dated 17th February 2020 issued by the Municipal Corporation, the Municipal Corporation is mentioned as the owner of the subject property.

18. It is submitted that the petitioners are developing lands belonging to Municipal Corporation and thus “development” undertaken by the petitioners is exempted from payment of development charges under Section 124F of the MRTP Act. The petitioners are thus not liable to pay “development charges.” The amounts already paid by the petitioners under protest towards development charges shall be directed to be refunded to the petitioners. He submitted that all conditions for granting exemption for payment of development charges prescribed under Section 124F are satisfied in the facts of this case.

19. It is submitted that the land being developed by the petitioners is vested in the Municipal Corporation. Redevelopment of the said land and the said structures are being undertaken by the petitioners under LOIs issued by the Municipal Corporation as planning authority and therefore, the redevelopment of the said land being carried out by the petitioners squarely falls within the parameters of the exempted entities under Section 124 F of the MRTP Act. He submitted that the word “or” appearing at all places in Section 124F between the following words is clearly disjunctive and not conjunctive :-

- a) *Word “Or” between “development of land” “Building.”*
- b) *Word between “vested”, “under control” and “possession.”*
- c) *“Central Government,” “State Government” and “Local Authority.”*

20. Learned senior counsel relied upon the definition of “development” as defined under Section 2(7) of the MRTP Act and submitted that the said land is owned by the Municipal Corporation and therefore, exemption from payment of development charges under

Section 124F would squarely apply in the present case. He placed reliance on various Clauses of the LOI as well as Revised LOI. It is submitted that the petitioners are rehabilitating the existing tenants. He also relied upon the definition of "Development Authority" under Section 2(8) and "Local Authority" under Section 2(15) of the said Act. He also relied upon the definition of the "Authority" constituted under the Maharashtra Housing and Area Development Act, 1976 under sub-section 15(c)(ii) of Section 2 of the MRTP Act and submitted that under the provisions of the MHADA, Municipal Corporation is designated as planning authority by the State Government. He also relied upon the definitions of "occupier" under Section 2(17), "owner" under Section 2(18) and "planning authority" under Section 2(19) of the MRTP Act.

21. Learned senior counsel placed reliance on Sections 43 to 45 of the MRTP Act. He tendered the Statement of Objects and Reasons for inserting Section 124A and 124F of the MRTP Act. It is submitted by the learned senior counsel that development charge is a tax and cannot be levied, assessed and recovered without authority of law under Section 124A of the MRTP Act. He submitted that the development charge is in the nature of compulsory exaction of money and therefore a "tax." He relied upon Article 265 of the Constitution of India and submitted that no tax shall be levied or collected except by authority of law. He submitted that the said provision under Section 124F(1) of the MRTP Act is clear and unambiguous and must be given effect to by its literal meaning. In construing penal statute and taxation statute the Court has to apply strict rule of interpretation. No extraneous condition, factors ought to be and/or can be read into the express language of Section 124F(1) of the MRTP Act.

22. It is submitted that as long as there is no ambiguity in the statutory language, resort to any interpretative process to unfold the legislative intent becomes impermissible. The need for interpretation arises when the words used in the statute are, on their terms, ambivalent and do not manifest the intent of the legislature. In interpretation of a fiscal statute, no words ought to be added and only the language used ought to be considered so as to ascertain the proper meaning and intent of the legislature.

23. Learned senior counsel submitted that it is axiomatic that taxation statute has to be interpreted strictly because the State cannot at their whims and fancies burden the citizen without authority of law. When the competent legislature mandates taxing certain persons/certain objects in certain circumstances, it cannot be expanded/interpreted to include those which were not intended by the legislature.

24. It is submitted that in the matter of imposition of tax, the acquiescence/undertaking or waiver cannot be relied upon by the State if tax otherwise is not legally payable. He submitted that even when the assessee has furnished an undertaking to pay the tax, in the absence of legal authority, tax cannot be justified. In the matters of taxation, there is no equity about the person being taxed. There is no presumption as to tax, nothing is to be read in and nothing is to be implied.

25. It is submitted that Section 124A to 124L introduced in MRTP Act by Maharashtra Act 16 of 1992 were introduced to provide a legal authority for levy of development fee/development charge. The Statement of Objects and Reasons specifically do not contain any

provision for levy and collection of development charge. It was thus decided to suitably amend the MRTP Act to provide for levy, assessment and recovery of development charge on institution of use or change of use of any land or building or development of any land or building for which a permission is required under the said MRTP Act. He submitted that in the absence of express provision in the Statute, the delegated authority cannot impose the tax as fees.

26. Learned senior counsel invited our attention to the Second Schedule under Section 124B of the MRTP Act and submitted that rates of development charges are prescribed under clause (a) to (c) of the said Schedule. He submitted that the scheme prepared by the Corporation by way of a Circular for levying parking charges was challenged before this Court. He submitted that this Court in case of ***MCGM Vs. Noshir Shapurji Dhabhar, 1991 1 BCR 53*** held that when such power to levy fees is not authorized by the legislation, municipal authority cannot claim such taxing power as incidental and consequential to its power to promote public safety and convenience. He submitted that as a result of the said judgment, Section 326-A was inserted in Mumbai Municipal Corporation Act, 1988 to provide the authority to levy parking charges.

27. Learned senior counsel submitted that in another matter, in case of ***Buildarch, Mumbai Vs.MCGM, 2010 6 BCR 218***, this Court has considered the challenge to the levy and imposition of premium by MCGM for the areas covered by staircase rooms, lift room, lift-wells and passages under Regulation 35(2)(c) of the said DCR. This Court in the said judgment has held that in the absence of express provision in the Act, the Corporation did not have any power or authority to levy or collect any premium or amounts by whatever name under the DCR for

grant of special permissions by the Commissioner.

28. It is submitted that in view of the said judgment in case of ***Buildarch, Mumbai Vs.MCGM, 2010 6 BCR 218***, Section 22 (m) was amended w.e.f. 11th January 1967 by Maharashtra Act 29 of 2010 to provide the power of imposition of fees, charges and premium at such rate as may be fixed by the State Government or planning authority from time to time for grant of any additional FSI or for special permission or for the use of discretionary powers under the said DCR.

29. It is submitted that it is open for the State to amend the law when the levy/tax is held to be without authority of law. By the amendment, State can introduce the power to levy tax. He submitted that in view of clear provisions of Section 124F providing for exemption, the imposition, levy and recovery of tax in this case is without authority of law. The respondents cannot recover any amount towards development charges without amending Section 124F.

30. Learned senior counsel invited our attention to the stand taken by the respondents in the affidavit-in-reply. It is submitted that the language of an exemption clause in any fiscal statute has to be strictly interpreted. It is only in the case of ambiguity that the interpretation which favours the department is to be adopted. He submitted that whether the petitioners develop the subject property or MCGM develops the subject property or any third party develops the subject property, the exemption under Section 124 F is to the land belonging to and vesting in local authority and therefore, who is developing it makes no difference to the plain language of Section 124F.

31. The respondents are seeking to insert the words “the lands belonging to Central Government, State Government or any other local authority” and shall be exempted from development charge “in cases where either the Central Government or State Government or local authority itself is undertaking the activity of institution or change of use or development of the land.” In the provisions of Section 124F, the earlier sentence is absent by process of imaginary interpretation of the exemption clause. He submitted that it is enough for a person seeking exemption of development charge that the property belongs to a local authority and it vests in the local authority. The question whether the local authority is actually in possession of or exercises control in respect of such property is not required to be separately met. He submitted that in any event, in this case, the subject property is owned by and is vested with the local authority. The land “vests” with MCGM by all connotations and meaning of “vesting.” It is submitted that if the arguments of the respondents Corporation are accepted, it would amount to rewriting the exemption clause under Section 124F.

32. It is submitted that the petitioners have not accepted the correctness of the demand made by the Corporation for payment of development charge but have paid the amount under protest as recorded in their letter dated 7th August 2020 and 21st December 2020. Though the payments have been made under protest, the petitioners are entitled to challenge the illegal and arbitrary levy of development charges. He submitted that the levy of development charges in this case is in derogation to the express provisions of Section 124F and thus deserves to be set aside.

33. It is submitted that if development would have been carried out by the State Government or Central Government or planning authority,

they were not required to apply for permission under Section 44 of the MRTTP Act and in that event, there was no question of paying any development charges. It is submitted that merely because the State Government has not undertaken infrastructure projects, the tax without authority of law does not become payable. The State Government in its wisdom may have taken up infrastructure projects on the basis of its outlay of income from all other sources and the tax that infrastructure projects are being undertaken cannot be an aid for interpreting the plain language of the statutory provision.

34. It is submitted that the only way to read two sub-sections of Section 124 F is that the Section 124 F (i) is an absolute exemption to a particular category i.e. land belonging to State Government, Central Government or local authority. The second category of exemption under Section 124(ii) is to be separately provided for by the State Government by a notification. Section 124F(ii) has no connection with Section 124F(i).

35. In so far as the issue of alternative remedy raised in the affidavit-in-reply is concerned, it is submitted by the learned senior counsel that the objection now raised is too late. Writ petition issues has been admitted way back in the year 2016 and therefore, assuming that if an alternative remedy is available, the petitioners ought not to be derogated to the alternative remedy. He submitted that considering the questions raised in the present batch of petitions, the alternative remedy is not an efficacious remedy in this case. It is submitted that the impugned action on the part of the respondents in this case is ultra virus, illegal and contrary to the plain language of the Statute and thus this Court has an ample power to entertain this writ petition.

36. Learned senior counsel for the petitioners also placed reliance on the provisions of the Maharashtra Housing and Area Development (Disposal of Land) Rules, 1981, the Maharashtra Housing and Area Development (Disposal of Land) Regulations, 1982, Regulation No.21 under the Maharashtra Housing and Area Development (Estate Managements, Sale, Transfer and Exchange of Tenements) Regulations, 1981 and also relied upon the definition of "local authority" under Section 2(26) of the Maharashtra General Clauses Act, 1904 and the definition of "local authority" under Section 2(31) of the General Clauses Act, 1897 in support of his submissions.

37. Learned senior counsel for the petitioners placed reliance on the following judgments in support of the aforesaid submissions : -

- (i) *Hyderabad Asbestos Cement Product Vs. Union of India, 2000 (1) SCC 426 (paragraph 8);***
- (ii) *Achal Industries Vs. State of Karnataka, 2019 SCC Online SC 428 (paragraph 11),***
- (iii) *Orissa Warehousing Corporation Vs.CIT, (1999) 4 SCC 197 (paragraphs 38 & 40),***
- (iv) *Vodafone International Holding vs. Union of India, (2012) 6 SCC 613 (paragraphs 400 to 403),***
- (v) *Commissioner of Customs Vs. Dilip Kumar & Co., (2019) 9 SCC 1 (paragraphs 24, 53 to 55 and 64 to 65),***
- (vi) *D.M. Haridwar Vs. Harish Malhotra, (2015) 11 SCC 513 (paragraphs 10 & 14),***

- (vii) Gursahai Saigal Vs. CIT, AIR 1963 SC 1062 (paragraph 8);**
- (viii) Ahmedabad Urban Development Authority Vs. Sharadkumar Jayantikumar Pasawala, (1992) 3 SCC 385 (paragraph 7);**
- (ix) MCGM Vs. Noshir Shapurji Dhabhar, 1991 (1) BCR 53 (paragraph 26);**
- (x) Buildarch, Mumbai Vs. MCGM, 2010 (6) BCR 218 (paragraph 21),**
- (xi) F & V Merchants Union Vs. Improvement Trust Delhi, AIR 1957 SC 344 (paragraph 19);**
- (xii) Whirlpool Corporation Vs. Registrar of Trademarks, 1998 (8) SCC 1 (paragraph 14);**
- (xiii) Radhakrishnan Industries Vs. State of Himachal Pradesh, 2021 (6) SCC 771 (paragraph 27).**

**Submissions of Mr. Chinoy, learned senior counsel
for Respondent No.2-Corporation in WP 1334 of 2019.**

38. Mr. Aspi Chinoy, learned senior counsel for respondent No.2-Corporation submitted that the petitioner No.1-Society is a registered Co-operative Housing Society of 194 members, who are tenants/allottees of respondent No.2-Corporation in respect of 10 chawls (collectively known as Shivaji Nagar) standing on a plot of land admeasuring 8200 sq. mtrs., which is owned by respondent No.2-

Corporation. In the year 2008, petitioner No.1 gave redevelopment rights in respect of these buildings / property to petitioner No.2, who carried on business as Builders and Developers.

39. It is submitted that on 01/03/2018, respondent No.2-Corporation issued a Letter of Intent (“**LoI**”) and sanctioned redevelopment under the provisions of Regulation 33(7) of the Development Control Regulations (“**DCR**”). Respondent No.2-Corporation collected a capitalized value of Rs.134.65 crores as a condition for grant of LoI. During the period between June, 2018 and November, 2018, respondent No.2-Corporation issued IODs. By a demand notice dated 23/01/2019, respondent No.2-Corporation demanded a payment of Development Charges aggregating to Rs.7.94 crores from the petitioners.

40. Pursuant to a revised LoI and increase in the total area, respondent No.2-Corporation sent another demand notice dated 18/06/2020 for recovery of Development Charges, amounting to a sum of Rs.3.98 crores from the petitioners. On 07/08/2020, the petitioners paid the Development Charges under protest. Respondent No.2-Corporation, thereafter, further raised a demand notice for Development Charges of Rs.24.28 lakhs, which was paid by the petitioners under protest on 21/12/2020.

41. It is submitted by the learned senior counsel that Section 124F of the Maharashtra Regional Town Planning Act, 1966 (for short, “**MRTP Act**”) does not refer to, or use the word ‘owned’ by the Local Authorities. On its plain terms, Section 124F does not indicate a legislative intent to exempt from liability to pay Development Charges on development being carried on by third parties, on lands, which are

'owned' by the Government or Local Authorities. The language / plain terms of Section 124F does not give an exemption to a private or third party, who is carrying on development / redevelopment in his own right and for his own benefit, on the ground that the land on which such development is taking place is 'owned' by the Local Authorities.

42. It is submitted by the learned senior counsel that Section 124F by its terms only gives an exemption to development of lands "vested in or under the control or possession of the Central or State Governments or of any Local Authority". Learned senior counsel submitted that the term 'vested' cannot be equated with the word 'ownership'. Section 124F, which provides for exemption, has to be construed strictly. He relied upon the judgment of the Supreme Court in the case of **Fruit & Vegetable Merchants Union Subzi Mandi v. Delhi Improvement Trust AIR 1957 SC 344** and more particularly, paragraph Nos.11, 14 and 19 thereof, and submitted that the term 'vesting' has variety of meaning, which has to be gathered from the context in which it has been used. It may mean full ownership, or only possession for a particular purpose, or clothing the authority to deal with the property as an agent of another person or authority'. He submitted that the word 'vest' has not got a fixed connotation, meaning in all cases, that the property is owned by the person or the authority in whom, it vests. It may vest in title, or it may vest in possession or it may vest in a limited sense, as indicated in the context in which it may have been used in a particular piece of legislation.

43. It is submitted that Section 124F and in particular, the word 'vested' used therein is unclear and ambiguous and has been incorrectly contended by the petitioners. Section 124F and in particular, the word 'vested' used therein, necessarily has to be construed in the

context of the rest of Section 124F and in the context of the purpose / object sought to be achieved by Section 124F.

44. It is submitted that, in the context in which it has been used in Section 124F i.e. along with the words "under the control or possession", the word 'vested', connotes vested in enjoyment or use. So construed, Section 124F gives an exemption from levy of Development Charges, where the land, which is being developed, is in the present enjoyment or use of the Government or Local Authority, or under the control or possession of the Government or the Local Authority; - as in all such cases, the development even if carried out by a third party, would necessarily have to be at the instance of and for the benefit of the Government or Local Authority.

45. It is submitted that, to construe Section 124F and the word 'vested' as denoting ownership, would result in Section 124F becoming arbitrary and unreasonable; inasmuch as it would result in a private party / third party, who is carrying on development in his own right and for his own benefit, would get an exemption from payment of Development Charges too, merely because the lessor / owner / reversion right holder is the Government or a Local Authority. Significantly, the petitioners have not been able to provide any basis / justification / public purpose that would be sub-served if the exemption in Section 124F was construed as covering a private third party undertaking development of land in his own right and for his own benefit, merely because the lessor / reversionary right / owner of the land was the Government or a Local Authority. The petitioners' case has been that they are not required to furnish any such basis / justification, in view of the plain and unambiguous terms of Section 124F.

46. It is submitted that as Section 124F is an exemption provision, as has been held by the Constitution Bench of the Hon'ble Supreme Court in the case of ***Commissioner of Customs v. Dilip Kumar & Co., (2018) 9 SCC 1*** it is a settled law that whether a person falls within an exemption clause (in contradistinction to a charging section/provision) is required to be strictly construed. A person, invoking an exemption provision to relieve him of tax liability, must establish clearly that he is covered by the said provision. In case of any doubt or ambiguity, benefit thereof must go to the State. If there is ambiguity in an exemption clause, the benefit of such ambiguity cannot be extended to the subject / assessee. It is submitted that, at numerous places in the Constitution Bench judgment in the case of ***Dilip Kumar & Co. (supra)***, both, exemption notifications and exemption provisions / sections in a statute are treated as being at par / similar.

47. It is submitted by the learned senior counsel that respondent No.2-Corporation has not added any words to Section 124F of the MRTP Act as sought to be canvassed by the petitioners to construe that only if the Central or State Governments or Local Authorities itself carries out development, they are entitled to seek exemption from payment of Development Charges under Section 124F. He submitted that the interpretation canvassed by respondent No.2-Corporation merely intends construing the word 'vested' in enjoyment or use. It is submitted by learned senior counsel that the term 'control' or 'possession' does not make any reference to title nor relates to ownership. The said provision does not contemplate the exemption to the development done by others.

48. It is submitted by the learned senior counsel that since the language of Section 124F is ambiguous and is required to be interpreted in favour of the revenue to mean 'possession' only. He submitted that the law on interpretation of taxing statute and exemption notification is that the ambiguity in charging section be interpreted in favour of the assessee, while ambiguity in exemption notification be interpreted in favour of the revenue. It is submitted that the three phrases in Section 124F would indicate that the authorities i.e. the Central or State Governments or Local Authorities must be in control and possession of lands and, therefore, 'vesting' of the land or the building is not of ownership and, therefore, title to the lands for which exemption is sought is irrelevant and 'vesting' must take colour from 'control' and 'possession'. It is submitted that for the purposes of exemption under Section 124F, the Local Authority must *in presenti* have all the facets of 'vesting' – use, enjoyment, occupation, possession and control of land or building in addition to ownership. He submitted that the term 'control' means actual dominion *in presenti*. If vesting was to mean ownership, Section 124F would have instead of the three phrases used the word 'ownership' or 'belonging to' and, therefore, ownership by itself is excluded and the three phrases are required to be read in context and conjunctively.

49. It is submitted that the petitioners must give explanation about rationale for exemption and also explain for whose benefit development is being undertaken and why exemption is warranted. It is submitted that the word 'vested' occurring in Section 124F is a term of ambiguous import. The word 'vesting' by its very nature is ambiguous and susceptible to several interpretations. As a result, the language of Section 124F, which is a provision of exemption in a statute is unclear and ambiguous. The interpretation, which favours the department must

be accepted and the interpretation, which favours the assessee must be rejected.

**Submissions of Dr. Sathe, learned senior counsel
for the petitioners in his rejoinder arguments :-**

50. Dr. Sathe, learned senior counsel in his rejoinder arguments submitted that in the present case, the land admittedly vests with respondent No.2-Corporation, who exercises control in respect of the development / institution of use or change of use of the land and, therefore, is covered by exemption under Section 124F. He submitted that the same argument will also apply to lands owned by MHADA and leased to Co-operative Societies, where MHADA exercises full control over the lands/buildings.

51. It is submitted that the word 'vested in' need not be satisfied in each and every case claiming exemption under Section 124F. It is sufficient for the person claiming exemption to prove either 'vested in' or 'in control of' or 'in possession of' the respondent-Corporation. He submitted that assuming the word 'vested in' is the term of ambiguous import, the exemption would nevertheless be available to lands which satisfied either one of the three criteria mentioned in Section 124F since the three phrases are used with 'or' making them disjunctive.

52. Learned senior counsel for the petitioners submitted that the word 'vest' occurs at several places in MRTP Act, such as in Section 31(5), Section 128(3), Section 115(1), Section 68(A), Section 83(1), (3), Section 105 (2), Section 113A, Section 118(1), (2), Section 119, Section 126 (1) (c), Section 128(3), Section 160(2)(a) and Section 161. The word 'vesting' in the MRTP Act, at all places, is used in the context of ownership. Therefore, the mere fact that the words 'belonging to' or

'owned by' are not used in Section 124F, makes no difference. Learned senior counsel submitted that in any case, the words used disjunctively i.e. vested in, 'under control of' and 'in possession of', denote a much wider meaning than the lands owned by or belonging to.

53. It is submitted that the respondents seek to add a few more caveats for applicability of Section 124F and, therefore, according to the respondents, Section 124F actually should read as follows:

"124F – No Development Charge shall be levied on institution of use or on change of use or development of any land or building vested in or under the control or possession of the Central or State Governments or of any Local Authority.

- (i) in cases where the **Central Government, State Government or Local Authority is itself undertaking the activity of institution or change of use or development of its land.**
- (ii) in cases where the **development is carried out at the instance of or for the benefit of the Central Government, State Government or Local Authority,**
- (iii) in case where **Central Government, State Government or Local Authority *in presenti* has use, enjoyment, occupation, possession, and control of the land or building.**

- (iv) in case where **Central Government, State Government or Local Authority has actual dominion *in presenti* over land and building.**

- (v) **if the development or institution of use or change of use of land/building should be for benefit of Central Government, State Government or Local Authority, and it shall be deemed to be ‘for the benefit of Central Government / State Government / Local Authority if it is in larger interest of State Government, Central Government or Local Authority even though incidental benefit is enjoyed by the Developer.’**

54. It is submitted by learned senior counsel that the language of Section 124F is absolutely clear and not ambiguous. Since there is no ambiguity in the said provision, the issue of interpretation of such a statutory provision or even a statutory notification granting exemption in a manner sought to be interpreted by the respondents would not arise. It is submitted that Section 124A to Section 124F are part of the statute, which is a provision for levy, assessment and recovery of the impost. In the event of any ambiguity, it has to be interpreted in favour of the assessee. He submitted that the judgment in the case of **Dilip Kumar & Co. (supra)**, the Supreme Court dealt with the exemption notifications issued by the Executive in exercise of the statutory power and was not dealing with the statutory provision.

55. Learned senior counsel relied upon the judgment of the Supreme Court in the case of **State of Maharashtra v. Shree Vile Parle Kelwani Mandal (2022) 2 SCC 725**, and submitted that if there is any ambiguity in any of these three components, no tax can be levied till the ambiguity or defect was removed by the legislature. In case of exemption notification or clause, the same is to be allowed based wholly by the language of the notification and exemption cannot be gathered by necessary implication or on a construction different on the words used by reference to the objects and purpose of granting exemption. The interpretation of Section 124F by the respondent-Corporation does complete violence to the plain, clear, and unambiguous language.

56. It is submitted by the learned senior counsel that the Development Charges shall be levied by the Planning Authority or Development Authority on institution of use, change of use, of any land or building for development of any land or building for which permission is required under the MRTP Act. The person instituting the use or change of use or commencing development is the assessee. The permission for institution of use or change of use or development of land or building is required under Sections 43 and 44 of the MRTP Act unless such activity is undertaken by the Central Government, State Government or Local Authority.

57. It is submitted that if the interpretation of the respondent-Corporation of Section 124F is accepted, then in that case, both Sections 124A and 124F would become meaningless insofar as institution of use, change of use or development of any land or building vesting in or under control of or in possession of the above three authorities are concerned. The fact that Section 124F grants exemption in respect of lands and buildings vesting in or under the control or

possession of the three authorities for which permission is necessary in unmistakable terms indicates that a person other than these three sets of authorities is undertaking these activities, when exemption under Section 124F is attracted. He submits that if this Court accepts the interpretation of Section 124F as canvassed by the respondent-Corporation, such interpretation would render Section 124F completely nugatory, which cannot be the intention of the legislature.

58. Learned senior counsel for the petitioners placed reliance on the following judgments in his rejoinder arguments:-

- (i) **Commissioner of Income Tax, Udaipur, Rajasthan v. McDowell & Company Limited (2009) 10 SCC 755;**
- (ii) **Jindal Stainless Limited & Anr. v. State of Haryana & Ors. (2017) 12 SCC 1.**
- (iii) **Jalkal Vibhag Nagar Nigam & Ors. v. Pradeshiya Industrial & Investment Corporation & Anr., 2021 SCC Online SC 960.**
- (iv) **Tata Iron & Steel Company Ltd. & Anr. v. State of Bihar & Ors. (2018) 12 SCC 107.**
- (v) **B. Premanand & Ors. Mohan Koikal & Ors. (2011) 4 SCC 266**
- (vi) **Shahed Kamal & Ors. v. Pagarani Universal Infrastructure Private Limited & Ors. Decided on 17/03/2022 in Appeal (L) No.8104 of 2020**
- (vi) **Union of India v. Commercial Tax Officer, West Bengal & Ors. AIR 1956 SC 202.**

59. It is submitted by learned senior counsel that the case of the petitioners would fall under Section 124F(1) of the MRTP Act. All the judgments referred to in the case of **Dilip Kumar & Co. (supra)** were the exemptions under Section 124F(2). He submitted that unless shown that plain interpretation leads to ambiguity, purposive interpretation is not permissible. He submitted that when Section 124A was inserted in the MRTP Act, Sections 44 and 45 of the MRTP Act already existed. Application under Section 44 of the MRTP Act is not required to be made by Central Government or State Government or Local Authorities. Rest of the persons seeking development of the land, are required to apply under the said provision.

60. Learned senior counsel placed reliance on the definition of 'control' prescribed in Law Lexicon by Ramanatha Iyer. He also relied upon the dictionary meaning of 'control' prescribed in Lex Dictionary.

FACTS in WPL 17580 of 2022

61. By this writ petition filed under Article 226 of the Constitution of India, the petitioners have prayed for a writ of certiorari for quashing and setting aside the demand notices for development charges, development cess and labour welfare cess. The petitioners have prayed for setting aside the demand notices for development charges at this initial stage and prayed for reliefs in respect of labour welfare cess or development cess at the later stage.

62. On 27th August, 1946, the grant was made with respect to the property of the land admeasuring 1045 sq.yards equivalent to 897.30 sq.mts. or thereabouts being new plot no. 362/2 and old plot no. 364 and 363, Part of Suburban Scheme No. III, Chembur as described in

paragraph 1.1 of the petition. The State of Maharashtra is the owner of the said land.

63. In the year 1967, the flat purchasers formed a society in the name of Basant Vihar Co-operative Housing Society Limited which is duly registered. On 22nd August, 1969, the legal heirs of Mr.Basantrao and the petitioner society entered into a registered Deed of Conveyance thereby conveying the said property in the name of the petitioner society.

64. On 2nd January, 2020, in the Special General Body meeting, the petitioners decided to go for self-redevelopment and sought proposals from various Development Consultants/Contractors. The petitioners accordingly passed a resolution on 21st January, 2020 and decided to appoint M/s.Mahavir Enterprises on 6th February, 2020 as the contractor. On 31st March, 2022, the petitioner no.1 executed and registered a development agreement with the petitioner no.2 for the redevelopment of the said land.

65. On 25th April, 2022, the respondents issued a tax invoice challan thereby demanding development charges and other amounts from the petitioners. The petitioners have thus filed this petition for various reliefs.

Submissions of Mr.Sanket Mone for the petitioners

in WPL 17580 of 2022:-

66. Mr.Mone, learned counsel for the petitioners adopts the submissions made by Dr.Sathe learned senior counsel for the petitioners in WP/1334/2019.

Submissions of Mr. Reis, learned senior counsel
for the Municipal Corporation in WP (L) No.17580 of 2022

67. Mr. Reis, learned senior counsel for the respondent-Corporation submitted that Chapter VI-A of the MRTP Act, inserted in the year 1992, deals with levy, assessment and recovery of Development Charges. The Development Charge is leviable as a fee imposed to enable the Authority to provide public amenities within its area and for improvement of the area. Contribution towards Development Charges is relatable to amenities provided by the Authority, like roads, parks, water supply, drainage, etc. He relied upon Section 2(2) of the MRTP Act.

68. Learned senior counsel for the Municipal Corporation states that the constitutional validity of Chapter VI-A has been upheld in the judgment of **Solapur Promoters & Builders Association (supra)**. This Court upheld that the classification under Section 124B of the Act is based on intelligible differentia, having nexus to the object sought to be achieved.

69. Learned senior counsel invited out attention to the prayers in the writ petition and submitted that the challenge of the petitioners is only for the refusal to grant exemption under Section 124F on the ground that the property is owned by the Collector and, therefore, vested in the State. There is no challenge to the constitutional validity of Chapter VI-A or the charging Section 124A. He submitted that even otherwise, no such challenge could have been made in view of the principles laid down by this Court in **Solapur Promoters & Builders Association (supra)**.

70. It is submitted by learned senior counsel that right from 1992, development is undertaken privately by developers on land belonging to the Authorities and have been paying Development Charges and they all understood that exemption is not applicable to the development

undertaken by them.

71. Learned senior counsel for the respondent-Corporation relied upon Section 124J of the MRTP Act, which defines Development Fund. He relied upon the unreported judgment in the case of **Real Gem Buildtech vs. State of Maharashtra, decided on 15/09/2017 in Writ Petition No.2820 of 2016** and in particular, paragraph nos.9, 13, 18 and 19. He also placed reliance on the judgment of the Hon'ble Supreme Court in the case of **Municipal Corporation of Hyderabad vs. P.N. Murthy, AIR 1987 SC 802** and, in particular, paragraph Nos.1, 5 and 7. Learned senior counsel placed reliance on the judgment of the Supreme Court in the case of **Municipal Commissioner of Dum Dum Municipality v. Indian Tourism Development Corporation (1995) 5 SCC 251** and submitted that the expression 'vest-in' has several shades of meaning. He submitted that the levy of Development Charges demanded by the Planning Authority are the charges for public purposes. The petitioners have not shown in the writ petition as to how the petitioners are entitled to seek exemption from payment of Development Charges.

72. It is submitted that for obtaining permission to construct, an application must be made to the Planning Authority under Chapter VI-A, including an application under Section 124E in respect of Development Charges. Such application is thereafter considered by the Authority. The consideration includes Development Charges to be paid. If any exemption is sought for, if they are entitled, the reasons for which exemption is to be granted have to be disclosed by the persons seeking exemption.

73. It is submitted that once the application for Development Charges

is decided by the Planning Authority, any person aggrieved, can file an appeal under Section 124G after following the procedure under Section 124H, which includes pre-deposit of amount claimed in the notice of assessment from the person, who wants to develop. It is submitted that in this case, no appeal has been filed by the petitioners, to avoid the pre-deposit of amount. He submits that this writ petition shall not be entertained also on the ground that there is an efficacious remedy available for filing an appeal under the MRTP Act.

74. It is submitted by learned senior counsel that the Development Charges are not in the nature of taxes but is a fee. He submitted that none of the judgments thus relied upon by the learned senior counsel is applicable. He submitted that the judgments cited by learned senior counsel for the petitioners are clearly distinguishable. No application is made by the petitioners under Section 124F and the basis thereof.

75. It is submitted by learned senior counsel that levy of Development Charges under Section 124A is on institution of use, change of use or development of any land or building and under Section 124A(2), the Development Charge shall be leviable on any person who institutes the use, change of use or seeks development of any land or building.

76. It is submitted that Section 124F has to be read *ejusdem generis* with remaining part of Section 124F, vesting, control, possession as well as in view of the fact that the exemption is only for development being undertaken by the Central or State Government or Local Authority and not by any private party. If the argument of the petitioners is accepted, it would fail the test of *intelligible differentia* having a nexus to the object sought to be achieved.

77. It is submitted that under Section 124A, any person, who wants to develop his land, has to make an application and pay the Development Charges. The petitioners, therefore, cannot classify a person developing private properties or properties of the Authorities. If the arguments of the petitioners are accepted, this would not stand the test of *intelligible differentia*.

78. It is submitted that the petitioners have undertaken the development independently of any Local Authority and on his own accord on the property of the Authority. They are not the Contractors of the Authority and, therefore, it cannot be held that the development is on behalf or for the exempted category. Exemption under Section 124F has to be read with Section 124A and Section 44 of the MRTP Act. Exemption under Section 124F is claimed only if the development is undertaken by the Authority. When the Authorities have divested their rights to develop the property privately, merely because the Authority has title to the property, it cannot be said that the property vests in the Local Authority and, moreover, the property is not under the control or possession of the Local Authority.

79. It is submitted by learned senior counsel that for getting exemption under Section 124F, the property ought to be owned by, vested in, and shall be in possession and control of the Local Authority. Since the development is by a private party and not by or on behalf of the Authority, the exemption is not applicable. It cannot be held that property vests in Public Authority only because they have title to the property when control or possession is not with the Local Authority.

80. Learned senior counsel for the respondent-Corporation submitted that in the case of ***Real Gem Buildtech (supra)***, the challenge was to

double taxation since the Planning Authority charged Development Charges under Section 124A and additional FSI under Regulations 33(24), 35(4) of the DCR. This Court, after considering various provisions relied upon by the parties, including Section 124A, held that the Development Charges are payable.

81. Learned senior counsel then relied upon the judgment in **P.N. Murthy (supra)** and submitted that the question which fell for consideration before the Hon'ble Supreme Court was whether the Municipal Act exempted the payment of assessment if the property is vested in the Authority. The building was owned by the Municipality and occupied by the tenants on the basis of a Hire Purchase Agreement, which would make them owners after the period for payment of entire amount came to an end. The question, which fell for consideration before the Supreme Court, was whether the building owned by the Corporation vests in the Corporation. The Supreme Court held that the property does not vest merely because it is owned by the Corporation.

82. Learned senior counsel placed reliance on the judgment of the Hon'ble Supreme Court in **Dum Dum Municipality (supra)** and submitted that the question fell for consideration of the Supreme Court was whether the property owned by the Central Government and given to International Airport Authority for running airports, because of ownership the property vested in the Central Government and, therefore, exempted from payment of municipal taxes. The Supreme Court held that because the Central Government is merely an owner, the property does not vest in the Central Government.

FACTS IN WRIT PETITION NO. 2193 OF 2022 :-

83. By this petition filed under Article 226 of the Constitution of India, the petitioners seek a declaration that the demand and recovery of the development charge is without authority of law and ultra vires the Constitution of India.

84. The petitioners also seek a writ of certiorari for quashing and setting aside the impugned demand note and the corresponding impugned tax invoice annexed at Exs.G and H to the petition. The petitioners also seek a writ of mandamus for order and directions against the Municipal Corporation to refund the amount of first installment of development cess/additional development cess together with interest thereon and for other reliefs.

85. The Municipal Corporation is the owner/lessor of the Plot No. 92, Agripada (West), Estate as well as building standing by name 'Bene Israel Building' thereof. It was constructed during World War II and used for housing the orphans and the destitute from Bene Israel Jew Community. The said plot was leased in the year 1937 for 99 years and further renewed upto 11th August 2048.

86. The petitioners mooted a redevelopment proposal under Regulation 33(7) of the DCPR 2034. On 14th January, 2022, the Municipal Corporation issued an IOD after receipt of NOC from MBE & R Board and Estate Department of MCGM, the lessor. In furtherance of the IOD, the MCGM raised various demands including the impugned notes and demand invoices.

**Submissions of Mr.Sanjay Kadam, learned counsel
for the petitioner in WP No.2193 of 2022 in his arguments :-**

87. Mr.Kadam, learned counsel for the petitioners adopted the submissions made by Dr.Sathe, learned senior counsel for the petitioners in Writ Petition No. 1334 of 2019 and made additional submissions.

88. It is submitted by the learned counsel that the development charge cannot be levied in respect of the redevelopment of MCGM owned land by the Corporation. As per the scheme of the Bombay Improvement Trust Act, these leasehold lands were entrusted to the Bombay Improvement Trust for the purpose of improvement by providing proper roads, sanitation etc. and after making such improvements, these leasehold lands were granted on lease to various lessees. The said leasehold lands are already developed by the said trust and/or the respective lessees. It is submitted that the development charge and/or development cess cannot be imposed in respect of redevelopment of the said leasehold lands.

89. It is submitted that section 124(A) of the MRTP Act, by way of an amendment in the year 1992, it classifies the categories in respect of which the Development charges can be levied viz. institution of use of land, change in use or development of land and building for which permission is required under the MRTP Act. He relied upon definition of 'development' under section 2(7) of the MRTP Act, then prevailing in the year 1992 and submitted that the said definition did not include the words 'demolition of the structures and erection of new building'. He submits that it was a clear intention of the Legislature, not to bring 'demolition of the structures and erection of new building' within the

ambit of section 124(A) of the MRTP Act.

90. It is submitted by the learned counsel that the Development Control Regulation 1991 which came into effect on 20th February, 1991, permitted various rehabilitation and redevelopment schemes by way of demolition of existing structures and erection of new buildings thereon. The definition of 'development' however remained the same.

91. It is submitted that the petitioners are implementing redevelopment scheme under Special Regulation i.e. DCR 33(7) read with Appendix III of the DCPR 2034. He relied upon clause (15) of the DCPR 33(7) and submitted that the said provision clearly contains the provision regarding imposition of additional development cess. It is submitted that the levy, demand and recovery of the development charges under section 124(A) of the MRTP Act in respect of the redevelopment of Municipal Corporation leasehold plot is arbitrary and ultra vires the Constitution of India.

**Submissions of Mr. Walawalkar, learned senior counsel
for the respondent-Corporation in Writ Petition No.2193 of 2022.**

92. Mr. Walawalkar, learned senior counsel for the respondent-Corporation submitted that in this case, the respondent-Corporation is the owner of the plot, which was granted on lease by the Corporation to the predecessors of petitioner No.1. The development rights are given by petitioner No.1 in favour of petitioner No.2. He submitted that the on-site infrastructure charges are also challenged by the petitioners in this case, which can be argued separately by the parties. Even if the Central or State Government or Planning Authority is required to apply for development permission they are exempted from payment of Development Charges under Section 124F.

93. Learned senior counsel placed reliance on the marginal note of Section 44 of the MRTP Act viz. "**Application for permission for development**". He submitted that it refers to development of land or building for which permission under the MRTP Act is necessary. Section 43 also specifically provides that after the date on which the declaration of intention to prepare a Development Plan for any area is published in the Official Gazette, no person shall institute or change the use of any land or carry out any development, land without the permission in writing of the Planning Authority. He submitted that if the development of any land or building is intended to be undertaken and permission for such development is required under the Act, then such person has to apply for permission for such development, and the Planning Authority has no choice, but to levy Development Charge because of the mandatory language used namely "shall levy".

94. It is submitted that Section 44 does not, even in an indirect manner, provide that if the land is owned by the Central or the State Government or by the Local Authority, no permission will be required under the Act. The said section provides a procedure to be followed by any person, not being Central or State Government or Local Authority to apply for such permission to develop in such form and containing such particulars and accompanied by such documents as may be prescribed.

95. It is submitted that the DCR 1991 and Development Control and Promotion Regulations ("**DCPR**") 2034 make detailed provisions for such applications. The words "rules made in this behalf" will include the said Regulations. There are other statutory provisions that govern the procedure to be followed when Central or State Government, or Local Authority intends to develop any land.

96. Learned senior counsel relied upon the objects and reasons in enacting the Chapter VI-A of the MRTP Act and submitted that the purpose of enacting Chapter VI-A was for the benefit of the Central Government, State Government or Planning Authority in public interest and not for the benefit of any Developer or any other persons redeveloping the property for their own profit.

97. Learned senior counsel placed reliance on Section 22(m) of the MRTP Act read with Sections 43 and 44. He submitted that Section 44 is not the only section relating to permission. Section 44 is the section relating to application for permission for development as the marginal note of that section shows. It is Section 43, which makes such development permissible only on obtaining permission in writing of the Planning Authority, without mentioning Central or State Government or Local Authority for excluding them from the purview of section 43.

98. It is submitted by learned senior counsel that Section 44 of the MRPT Act mandates on the party, not being Central or State Government or a local authority, who intends to carry out any development on any land, to make an application in writing to the Planning Authority for permission. He submitted that if the Central or State Government or Local Authority intends to develop the property, it shall not be required to make an application to the Planning Authority as stated under Section 44 of the MRTP Act.

99. It is submitted that it is not any Local Authority, which intends to make any development on the land even when it is the owner of the land. It is the petitioner-Society, which intends to develop the land by demolishing the old building and by constructing a new one in its place

by availing of the benefits conferred on such development by the DCR in the nature of additional FSI by way of incentive, which will be sold in the market.

100. It is submitted that any such development proposed to be carried out by a developer or by a private party, it is going to add to additional population in the area, causing pressure on the amenities already in existence, necessitating provision by the Local Authority to meet the needs of increased population in the area. The petitioners are going to be the beneficiary, sharing advantages of incentive FSI, and additional amenities, and, are thus, bound to make payment of Development Charges.

101. The petitioners will have to prove that it is the Local Authority, which intends to develop the land. If the development is to be made by the Local Authority itself, that Authority is not required to make such application under Section 44. There is no provision under the Act stating that no permission would be required from the Planning Authority for such development by the Local Authority. Merely because the Local Authority is the owner of the land is not at all relevant for interpreting Section 44. What is material and relevant for the purpose of Section 44 is not who is the owner of the land intended to be developed. The emphasis is, at whose instance the development of the land is undertaken, and not on the ownership of the land, but on how to obtain permission.

102. Learned senior counsel invited our attention to Section 44 of the MRTP Act and submitted that the said section opens with the words "except otherwise provided by the rules made in this behalf", which indicates that the said provision is to make it obligatory for every person

not being Local Authority, intending to make development to apply for such permission for development of any land or building. If the Local Authority was to intend such development, such application as laid down in Section 44 was not necessary. It is submitted that if there are other provisions by rules made in that behalf, governing such application for permission for development of any land by Central or State Government of any local authority, such an application will be necessary even by Central or State Government or by Local Authority, and, in any event, application of mind by the Planning Authority to the intended development, on receiving intimation of intended development by Government or Local Authority.

103. Learned senior counsel placed reliance on Regulation 4 of DCR 1991 including the marginal note and submitted that no person shall erect or re-erect a building or alter any building or carry out any development or redevelopment on any plot of land or cause the same to be done without first obtaining separate development permission and commencement certificate from the Commissioner. He relied upon Regulation 9 of DCPR 2034 and submitted that the said Regulation lays down the procedure for obtaining development permission and commencement certificate. He submitted that Regulation 4(2) specifically excludes constructions for operational purposes including maintenance of operational structures by the organizations, authorities or departments specifically mentioned therein and which are given exemption by special permission of the Commissioner in each case, except those relating to FSI and Fire Precautions.

104. Learned senior counsel placed reliance on Regulation 4(3) of DCPR 2034 and submitted that even the said provision provides for exclusion of certain constructions by exempting them from the purview

of those regulations, except those relating to FSI and Fire Precautions.

105. Learned senior counsel also relied upon Regulations 5, 9 and 10 of the DCPR 2034 and submitted that certain constructions, which are operational are excluded from the purview of said regulations. However, under sub-rule (2), such exemption is by special permission of the Commissioner in each case, except those relating to FSI and Fire Precautions. All other constructions by any person shall require permission under Sections 43 and 44 of the MRTP Act read with Regulations 4 and 5 of DCR 1991.

106. Learned senior counsel placed reliance on the proviso to Regulations 4 and 5 of DCR 1991 and submitted that it is clear that residential building shall not be entitled for exemption at all even if they are by Authorities specified under Regulation 4 of DCR. Permission under Sections 43 and 44 shall be necessary for construction of residential buildings by every person, even by MHADA / MCGM, a local authority.

107. Learned senior counsel placed reliance on Section 58 of the MRTP Act and provisions of Maharashtra Development Plan Rules, 1970 and submitted that when any Government intends to carry out development, the officer in charge for such development of any land to be undertaken for the purpose of any of its departments, shall inform in writing to the Planning Authority the intention of the Government to do so, giving full particulars thereof, and accompanied by such documents and plans as may be prescribed at least 10 days before undertaking such development.

108. Learned senior counsel submitted that under Rule 14 of the

Maharashtra Development Plan Rules 1970, which relates to development to be undertaken on behalf of Government prescribes such documents and plans referred to in Section 58 which should accompany the intimation of intention of Government to carry out development of any land for its purpose, even if it is not called an application as mentioned in Section 44.

109. It is submitted that even in the case of development to be made or undertaken on any land by the Municipal Corporation itself, it has its Building Proposal (Special Cell) Department, where the plans with other relevant particulars are to be submitted to Municipal Commissioner and the development is to be made after the plans are duly sanctioned. The purpose of such control over every development within the jurisdiction of Municipal Corporation is to carry out planned development. He submitted that it is not the case of the petitioners that such permission is not necessary at all for development on land owned by Government, MHADA or Corporation at all.

110. It is submitted by learned senior counsel that if the arguments of the petitioners that no permission will be necessary under Section 44 of the MRTP Act in respect of development of land belonging to Government or Local Authority at all, it will have shocking results, disastrous consequences and will create chaotic conditions, as the requirements of several provisions of law imposing strict conditions for planned development will be rendered nugatory, especially those relating to FSI and Fire Precautions.

111. It is submitted by learned senior counsel that even if MHADA, a Local Authority is allowed to function as such Planning Authority in respect of the projects of MHADA, there does not seem to be any

amendment in MRTP Act or DCRs to exclude MHADA from Sections 22(m), 43 or 44 or DCRs so as to exclude it from the rigours of Sections 100 and 101. The Municipal Commissioner continues to be the authority for the purposes of Sections 43 and 44 even for land or building owned by MHADA and especially those lands owned by MHADA and leased to persons for construction of residential houses thereon and those persons intend to carry out development on such land.

112. Learned senior counsel placed reliance on Sections 100 and 101 of the MHADA Act and submitted that a procedure for giving notice and obtaining permission for building to be repaired or reconstructed by MHADA is prescribed under Section 101 of the MHADA Act. If a notice is required to be given or any application is to be made and the approval, sanction, consent, or permission of Municipal Commissioner is required to be obtained, the necessary permission shall be deemed to be obtained by the MHADA. If MHADA gives a reasonable notice of the proposed work to Municipal Commissioner or other Authority concerned before the work is commenced. The Municipal Commissioner can consider such proposal.

113. It makes obligatory for the State Government to consider every objection or suggestion made by the Municipal Commissioner under sub-section (3) of Section 101. The Government is required to pass orders on such application after carrying out an investigation and the work shall be carried out in accordance with such orders. He submitted that in spite of non obstante clause in the opening of Section 100, the Municipal Commissioner has a very vital role to play. There is necessity of submitting application for permission of Municipal Commissioner even if MHADA intends to carry out such development.

114. So far as the interpretation of Section 124F of MRTP Act as sought to be canvassed by the petitioners is concerned, it is submitted by learned senior counsel for the respondent-Corporation that if the legislature had an intention to confer the benefit of exemption on the land owned by any Local Authority, nothing was easier for the legislature than to use the term 'owned by' in that section. The meaning of the said words will have to be ascertained from the context in which they are used. The other words used in the said section are 'under control' or 'in possession of' Local Authority.

115. It is submitted that MHADA has no control at all over the land leased out to the petitioners, nor on the building built thereon. None of the terms of the lease gives any power to the lesser to give any direction or order which could have any statutory force except a right to terminate the agreement or a right of re-entry on breach of any term or the terms of the lease, like any other ordinary landlords, MHADA and its lessees or MCGM and its lessees are ordinary contracting parties like any other individual.

116. It is submitted that even under the terms of lease between the MHADA and the petitioners, the MHADA cannot interfere with the possession of the petitioners and the lessee will be entitled to enjoy the leased plot and building so long as the petitioners pay the agreed lease rent and abides by the terms of the said lease without breach of the terms of the lease. The Lessee peacefully holds and enjoys the leased land during the said term without any unlawful interruption by the Authority or any persons claiming through or under the Authority.

117. It is submitted that the land and the building as of today, are not vested in MHADA or Municipal Corporation, nor under control of such

Authority or in possession of MHADA or Municipal Corporation. The intended development cannot be said to be exempted from levy of Development Charges as none of the said three pre-conditions for exemption is satisfied, and it is not MHADA or the Central or State Government or Corporation which intends to carry out the said development.

118. It is submitted by learned senior counsel that in these cases, the development is intended and being carried out by private party and not by MHADA or Corporation as a Local Authorities. The land is leased by MHADA to allottees and the allottees have made constructions on the leased plot, which construction is owned by the allottees. In this case, the Corporation had agreed to grant lease of the concerned plot on constructing a building under a building Agreement. They constructed a building on that plot and the Corporation granted lease to the petitioners.

119. It is the lessees, who intend to carry out such construction and in fact, has applied for such permission in their names. Their applications are submitted along with plans and documents as required by DCRs and Building Byelaws and are considered by the Commissioner and granted permission on finding the same in order.

120. Learned senior counsel submitted that the demolition of the old building and reconstruction of new building is admittedly building operations and a development within the meaning of Sections 2(5) and 2(7) of the MRTP Act for which in all cases permission is required and for which an application is required to be filed.

121. It is submitted that the land being in ownership of MHADA or Corporation, will cease to be relevant for considering liability to pay Development Charges under Section 124A of the Act by such person, who intends to carry out development, as it requires a permission mentioned in Section 124A of the MRTP Act, especially Sections 43 and 44.

122. It is submitted that the building to be demolished and new building to be constructed in its place, is not 'vested in' MHADA nor in Corporation nor the same is 'in possession of' MHADA or Corporation. The buildings owned by the allottees are in possession of the allottees and are in the control of allottees. The lessors are collecting lease rents of the land.

123. Insofar as facts in writ petition filed by Bene Israel Homes for Destitutes & Orphans i.e. Writ Petition No.2193 of 2022 is concerned, it is submitted by learned senior counsel that the land was owned by the Corporation, which was given to predecessors of petitioner No.1 under Building Agreement. The lessee constructed a building thereon under the said Building Agreement. The predecessors of petitioner No.1 was given the land and building on lease.

124. Learned senior counsel submitted that even under the said Lease Deed, the Commissioner has covenanted with the lessee that the lessee paying the rent thereby reserved and performing and observing all the covenants and agreement hereinbefore contained or referred to may hold and enjoy the said premises during the said term without any interruption by the Corporation or any person claiming under them. It is necessary for the petitioners to apply for and obtain sanction to their plans or redevelopment. The development is intended by the

petitioners and not by the Corporation. The petitioners thus had applied rightly for permission to carry out such development and not the Corporation. It is submitted by learned senior counsel that the provisions of DCRs have a statutory force and binding upon everybody residing in the territorial jurisdiction of the Planning Authority.

Facts in Writ Petition No.1937 of 2016

125. The petitioner has impugned the Demand/Calculation sheet issued by the respondent no.3-Slum Rehabilitation Authority (SRA) calling upon the petitioner to pay an amount of Rs.32,37,32,020/- towards the payment of development charges and for other reliefs.

126. The respondent no.1 State of Maharashtra is the owner of the plot of land bearing CS No.725 (pt.), 1/725 (pt) and 3/725 (pt) of Malabar Hill Division, D-Ward (for short "the writ property") which consists of land together with hutments/structures standing thereon. The 3 societies namely New Jaiphalwadi SRA CHS Ltd., Janata Hill SRA CHS Ltd and Nav Maharashtra Nagar SRA CHS Ltd. entered into a Development Agreements with the petitioner.

127. The petitioner sought to undertake the redevelopment project at the said property wherein 12 rehabilitation buildings for the erstwhile hutment dwellers of the said property and 4 towers for new third party flat purchasers has been sought to be constructed. The petitioner has constructed two sale towers namely 'The Imperial' and is in the process of constructing the 3rd sale tower. The petitioner thereafter obtained permission for Fire NOC as well as NOC from the Airport Authority of India in respect of the said Sale Tower No.3. The respondent no.4 issued intimation of approval on 31st January, 2011 in favour of the

petitioner on the terms and conditions set out therein.

128. The petitioner was served with the impugned calculation sheet dated 30th November, 2015 demanding an amount of Rs.32,37,32,020/- towards the payment of development charges annexed at Ex.A to the petition. The petitioner filed this petition on 2nd May, 2016 inter alia praying for various reliefs.

129. It is the case of the petitioner that the respondent no.1 i.e. the State of Maharashtra is the owner of the writ property and thus the State Government be exempted from the payment of the development charges under section 124F of the MRTP Act. The petitioner carried out the redevelopment on the said plot owned by the respondent no.1 and the petitioner is also entitled to exemption from payment of development charges.

**Submission of Dr.Sathe, learned senior counsel
for the petitioner in WP No.1937 of 2016**

130. Dr.Sathe, learned counsel for the petitioner reiterated the submissions made in Writ Petition No. 1334 of 2019.

**Submission of the respondent no.1-Corporation
in WP No.1937 of 2016**

131. Learned counsel for the respondent no.1 adopted the submissions of Mr.Chinoy, learned senior counsel in WP 1334 of 2019, Mr.Reis, learned senior counsel in WPL 17580 of 2022 and Mr.Walawalkar, learned senior counsel in WP 2193 of 2022.

FACTS IN WRIT PETITION (L) NO. 9673 OF 2022 :-

132. By this writ petition filed under Article 226 of the Constitution of India, the petitioners have prayed for a writ of certiorari for quashing and

setting aside the impugned notice dated 21st March, 2022 only qua the levy/recovery of development charges amounting to Rs.1,92,05,600/- and for various other reliefs.

133. The respondent no.2 MHADA is the owner of the writ land. MHADA had already constructed a building on the said land. On 26th December, 1990, a lease deed was executed between the respondent no.2 and the respondent no.7 whereby the subject property has been leased by respondent no.2 in favour of the respondent no.7 for 99 years. The petitioner no.1 was appointed as the developer of the subject property on 16th December, 2018. The Deputy Registrar of Co-operative Societies granted a NOC for redevelopment and also for the appointment of the petitioner no.1 as the developer of the subject property.

134. On 13th September, 2019, a registered Development Agreement came to be registered between petitioner no.1 and the respondent no.7 to redevelop the subject property. A First Supplemental to the Agreement for Redevelopment was executed between petitioner no.1 and respondent no.7 on revised terms and conditions on 14th October, 2021.

135. On 19th March 2020, 27th July 2021 and 28th December 2021, the petitioners obtained offer letters issued by the respondent no.2. During the period between 20th July, 2021 and 31st December, 2021 the petitioners paid a substantial amount to the respondent no.2 with respect to the redevelopment of the said property.

136. On 12th October, 2021, the respondent no.2 issued a NOC to the petitioners in respect of the writ property. On 29th October, 2021 and

10th December, 2021, the petitioners received an Intimation of Approval from the respondent no.2 and also obtained a commencement certificate from the respondent no.2 upto plinth level on 16th December, 2021.

137. Thereafter, on 2nd February, 2022, the petitioners registered the subject property with MahaRERA. On 21st March, 2022, the respondent no.4 issued the impugned notice to the petitioner no.1 levying development charges. Thus, on 24th March, 2022, the petitioners filed this writ petition for various reliefs.

**Submissions of Mr.Godbole, learned counsel for the petitioner
in Writ Petition (L) No.9673 of 2022 :-**

138. Mr.Godbole, learned counsel for the petitioners submits that the writ plot belongs to MHADA and is leased to the respondent no.7 society. The said land continues to belong to MHADA and is under the control of and vested in MHADA. The MHADA in this case is admittedly the local authority defined under section 2(19) of the MRTP Act. He invited our attention to the terms of the lease deed dated 26th December, 1990 executed between the respondent no.2 and the respondent no.7 society. He submitted that it is clearly mentioned in the said lease deed that MHADA has all the rights and obligations in relation to the subject land. MHADA has only conveyed the building which consisted of 40 tenements situated on the said land in favour of the respondent no.7 society by a sale deed and only the lease is granted in respect of the subject land underneath and appurtenant to the said building. He relied upon the recitals of the said lease deed and submitted that MHADA is in absolute control and possesses various powers with respect to the subject land.

139. Learned counsel placed reliance on the said lease deed executed between MHADA and the respondent no.7 and submitted that the writ land continues to be a property of the respondent no.2 MHADA. The respondent no.7 society does not have any right, title or interest in the land. He relied upon clause (5) of the sale deed in support of his submission. He submitted that it is thus clear that MHADA continues to be the owner of the writ land underneath the said building.

140. Learned counsel invited our attention to section 124F of the MRTP Act and submitted that the word 'or' mentioned in section 124F is disjunctive and both categories i.e. 'lands vested in' and 'lands under the control and possession of local authority' are exempted under section 124F of the MRTP Act. He submitted that since the land vests in MHADA and is owned by MHADA, the requirement of lands being under the control and possession of local authority is not required to be separately satisfied for this exemption to apply. He submitted that in any event, both the requirements are met by the writ land in this case.

141. Learned counsel placed reliance on the definition of 'owner' under section 2(18), 'occupier' under section 2(17) of the MRTP Act and submitted that it is clearly provided that the Maharashtra Rent Control Act, 2000 would not apply to premises belonging to the authority which makes it clear that MRTP Act intended to provide exemption under section 124F of the MRTP Act not only to the owner but to premises vesting in, under control or possession of authorities prescribed therein.

142. It is submitted that there is clear difference between sections 124F(1), 124F(2) and 124F(3), the MHADA Act does not provide for any prohibition regarding additional area to be sold in the open market. There is no substance in the submission of the respondent that section

124F of the MRTP Act is not applicable where the society is going under redevelopment.

143. Learned counsel for the petitioner placed reliance on section 2(13) of the MHADA Act and submitted that the redevelopment is included in 'development' defined under section 2(13). The local authority which is an integral part of section 124F is defined separately under the statute.

144. Learned counsel placed reliance on the judgment of Supreme Court in case of ***The State of Maharashtra vs. Shri Vile Parle Kelvani Mandal & Ors., in Civil Appeal No.7319 of 2021***, in the case of ***Essar Steel India Ltd. and anr. vs. State of Guajrat and anr. in Civil Appeal No.4842 of 2017***, judgment of Supreme Court in case of ***Giridhar G.Yadalam vs. Commissioner of Wealth Tax and anr. in Civil Appeal No. 728 of 2011***.

145. It is submitted by the learned counsel that the development charges demanded by the respondents is in the nature of taxes and thus taxes cannot be collected without authority of law under section 265 of the Constitution of India. Learned counsel also placed reliance on the judgment of Supreme Court in case of ***Ahmedabad Urban Development Authority vs. Sharad Kumar Jayantikumar Pasawalla and others, (1992) 3 SCC 285*** and judgment of this Court in case of ***Amit Maru & Anr. vs. State of Maharashtra & Anr. 2010 SCC OnLine Bom 774***.

Submission of Mr.Kumbhakoni, learned Advocate General
for MHADA and the State of Maharashtra
in WP (L) No.9673 of 2022.

146. Mr. Kumbhakoni, learned Advocate General for MHADA and the State of Maharashtra submitted that the Development Charges levied by MHADA are in the nature of a fee and not tax. The judgments relied upon by the petitioners that the Development Charges are in the nature of tax and cannot be collected without authority of law, are not applicable to the facts of this case. Since the Development Charges are in the nature of a fee, the principle of strict interpretation is diluted.

147. Learned Advocate General submitted that since 1992, the Development Charges have been paid by the petitioners. He relied upon the paragraph nos.7 and 8 of the objects and reasons to indicate as to why the provisions of Section 124A to 124F were inserted in the MRTTP Act. He submitted that Article 265, that is pressed in service by the petitioners in this case would have no application.

148. It is submitted that the petitioners, who seek an exemption and refuse to pay taxes, have to prove that they are exempted from paying such taxes. Such provisions granting exemption has to be construed strictly. The Court has to consider the objects and purposes of granting such exemption. Since the exemption provision under Section 124F of the Act raises ambiguity, the Court is empowered to apply purposive interpretation after considering the object and purpose and the legislative intent for granting exemption to the Central Government or State Government or Local Authority.

149. Learned Advocate General submitted that in case of a taxing provision, strict interpretation has to be applied by the Court and the benefit has to be granted in favour of the revenue in case of exemption provision. There is no ambiguity of any nature whatsoever according to

any party in the provisions under Section 124A of the Act. In case of any ambiguity under Section 124A, which is a charging section, the benefit thereof has to be given to the assessee, whereas in case of any ambiguity under the exemption provision under Section 124F, the benefit has to be given to the revenue.

150. It is submitted by the learned Advocate General that Section 124A of the MRTP Act cannot be applied to the proviso of Section 43. No permission is required to be obtained by the Central Government or State Government or Local Authority for carrying out any development under Section 44 of the MRTP Act. Section 58 would apply in the case development is undertaken on behalf of the Government.

151. If Section 43 applies to any development being carried out by any party, other than the Central Government or State Government or Local Authority, the Development Charges will be payable under Section 124A of the MRTP Act. It is submitted that under Section 124A(2), the said provision is person centric and not property centric. The person, who applies, has to be seen whether such person is exempted, and not who is the owner. Under Section 124E, the person who intends to carry out any development, has to apply. Under Chapter VI, the Development Charges are levied on the person who develops the property. If the Government appoints an agency for carrying out the development work for itself, the Development Charges may not be levied. Exemption is not granted to a private party, developing the land or the property.

152. It is submitted that the term 'vest', 'control' or 'possession' are not disjunctive and have to be read as 'and', keeping in view the legislative intent for the purpose of purposive interpretation, even in case of the taxing provision. It is submitted by the learned Advocate General that

the Court has to consider the manifested intention and has to give effect accordingly. If the plain interpretation of a provision gives an absurd result, purposive interpretation has to be accepted.

153. The Lol as well as the revised Lol issued in favour of the petitioners by the Authorities clearly provide for the Development Charges under Section 124A. The petitioners have accepted the conditions imposed by the Planning Authority that the Development Charges will have to be paid. In support of the aforesaid submissions, learned Advocate General relied upon the following judgments:-

- (i) Judgment of this Court in the case of **Solapur Promoters & Builders Association Society & Anr. v. State of Maharashtra & Ors. 2005 (4) Mh.L.J. 445.**
- (ii) Judgment of the Hon'ble Supreme Court in the case of **State of Maharashtra v. Shri Vile Parle Kelvani Mandal & Ors. (2022) 2 SCC 725.**
- (iii) Judgment of the Hon'ble Supreme Court in the case of **Yum! Restaurants (Marketing) Private Limited v. Commissioner of Income Tax, Delhi (2021) 7 SCC 678.**
- (iv) Judgment of the Hon'ble Supreme Court in the case of **Anuj Jain, Interimj Resolution Professional for Jaypee Infratech Limited v. Axis Bank Limited & Ors. (2020) 8 SCC 401**
- (v) Judgment of the Hon'ble Supreme Court in the case of **Prof. Yashpal & Anr. v. State of Chhattisgarh & Ors. (2005) 5 SCC 420**

FACTS IN WRIT PETITION (L) NO.8126 OF 2022

154. The petitioners have prayed for a writ of mandamus against MHADA to not demand Development Charges amounting to Rs.12,71,09,700/- and seek a direction for issuance of a commencement certificate to the petitioners without payment of the

Development Charges.

155. Respondent No.1, MHADA, granted the lease of land bearing a cluster plot / house bearing No.641 to 720, totalling 80 plots, admeasuring 2793.12 sq. mtrs. including the tit-bit plot area of 942.10 sq. mtrs. in total admeasuring 3735.22 sq. mtrs. approximately, bearing C.T.S. No.1(part), Adarsh Nagar, Jogeshwari (West), Mumbai – 400 102.

156. Respondent No.1 had constructed eight chawls bearing Nos.65 to 72, each consisting of 10 tenements, on the said plot and allotted the said tenements to the persons from economically weaker sections. The said allottees formed a Co-operative Housing Society in the name of petitioner No.1. On 01st June, 1987, respondent No.1-MHADA granted the said plot on lease to petitioner No.1 for a period of thirty years. The said lease period came to an end by the efflux of time. It is the case of the petitioners that the tenements occupied by the members of the petitioner-Society became dilapidated and, thus, the petitioner-Society decided to redevelop the said land and appointed the petitioner No.2 as the Developer to redevelop the said land.

157. The petitioners had given some portion of the said land to MMRDA for the Metro Line 2A Project. The petitioner No.2 had executed a second development agreement dated 27th November, 2020 with the petitioner No.1. It is the case of the petitioners that under the consent terms arrived at between the petitioners on one hand and the MMRDA on the other hand, the MMRDA agreed to pay infrastructure charges to respondent No.1 as per the Regulation No.33(5) of the DCR amounting to approximately Rs.46 crores. Respondent No.1, thereafter, issued a NOC for the proposed redevelopment of the said land under

the Regulation No.33(5) of the DCPR 2034, vide letter dated 23rd June, 2021. On 06th June, 2021, respondent No.3 i.e. Building Permission Cell of MHADA demanded various amounts, including Development Charges amounting to Rs.12,71,09,700/- from the petitioners.

158. Respondent No.3 issued a revised IOD, vide letter dated 23rd July, 2021 imposing a condition, being Condition No.B-2, whereunder the petitioners were required to pay all the charges demanded by respondent Nos.1 to 3. The petitioners vide their advocate's notice dated 10th March, 2022 called upon respondent Nos.1 to 3 to withdraw the said demand notices. Since there was no reply to the said legal notice, the petitioners have filed the present writ petition for various reliefs.

**Submissions of Mr.Vashi, learned senior counsel
for the petitioners in WP (L) No.8126 of 2022 :-**

159. Mr. M.M. Vashi, learned senior counsel for the petitioners adopted the submissions made by Dr. Milind Sathe for the petitioners in Writ Petition No.1334 of 2019 and made additional submissions. He referred to Section 124F of the MRTP Act and submitted that in this case, MHADA has retained total control of the said land with it. With effect from 23rd July, 2021, MHADA became the Planning Authority. Learned senior counsel invited our attention to the averments made by the respondent No.3 in the affidavit in reply dated 27th May, 2022 and more particularly in paragraph No.2(A) and submitted that it is admitted by the respondent Nos.1 to 3 that the respondent No.1 is the owner of the said land.

160. It is submitted that it is also admitted that the tenements were allotted to the petitioner-Society as per Part-III of the Maharashtra

Housing and Area Development (Estate Management, Sale, Transfer and Exchange of Tenements) Regulations, 1981. Respondent No.1 had granted a lease to petitioner-Society on the terms and conditions mentioned in the Indenture of Lease dated 27th June, 2011. By the Indenture of Lease, the land beneath the chawls is leased to the petitioner-Society and the eight chawls were also conveyed to the petitioner-Society. The petitioner-Society is the owner of eight chawls consisting of 10 tenements each.

161. It is submitted by the learned senior counsel that MHADA did not make any application for carrying out redevelopment in this case. He submitted that the stand taken by MHADA that the exemption can be granted only if the land is developed by MHADA itself is contrary to the plain reading of Section 124F. He submitted that Section 124A has to be read with Section 124F of the MRTP Act.

162. Learned senior counsel for the petitioner relied upon the Government Circular issued by State Government on 16th March, 2021 and submitted that it is admitted by the State of Maharashtra that the land is owned by MHADA and that MHADA will proceed with the issuance of a NOC only after receiving the proposal for redevelopment of land such land from the Co-operative Society/concerned developer. MHADA has no control over the said redevelopment process and it cannot intervene in case of a violation of the terms and conditions in view of there being a bilateral agreement between the concerned organization and the developer regarding the redevelopment. Learned senior counsel placed reliance on the tripartite agreement and submitted that MHADA is a party to the said tripartite agreement and has kept control over the entire land.

163. It is submitted that since the land belonging to respondent No.1-MHADA is exempted from development charges under Section 124F of the MRTP Act, the land, which vests in MHADA and is under control of MHADA is thus fully exempted from payment of development charges. No such demand could be raised upon the petitioners for the development charges. No development charges can be levied or recovered on institution for use or change of use or development of any land or building that is vested in or under the control or possession of the Central or State Government or any Local Authority in terms of Section 124F of the MRTP Act. He submitted that the plot under redevelopment is admittedly vested in MHADA. He submitted that the terms and conditions of the Lease Deed are clear and indicate that MHADA continues to be the owner of the plot and the petitioners only have leasehold rights in respect of the said plot.

**Submissions of Respondent no.1 MHADA
in WP No.8126 of 2022 :-**

164. Learned counsel for the respondent no.1 adopted the submissions made by Mr.Kumbhakoni, Advocate General in Writ Petition (L) No.9673 of 2022.

FACTS in Writ Petition (L) No.704 of 2022

165. The petitioners have challenged a demand notice for the payment of Development Charges contained in the letter dated 30th December, 2021. The Respondent No.1 is MHADA. The Respondent Nos.3 and 4 are the Co-operative Housing Societies. The Respondent No.1 is the owner of Building no.14 (1st Building) lying, being and situated on the plot bearing Survey No.106A, C.T.S. No.195 (part) at D.N. Nagar layout of MHADA, Village and Taluka Andheri, Mumbai Suburban District admeasuring about 1235.73 sq. mtrs. (“1st Plot”), (ii) Building No.6/1 to

6/10 (“**2nd Building**”) lying, being and situated on the same plot (part) admeasuring 330.92 sq. mtrs. (“**2nd Plot**”). It is the case of the petitioners that respondent No.1-MHADA is the owner of the said two plots on which the said 2nd Building also stands.

166. On 14th February 1997, the allottees of various tenements in the 1st Building formed the respondent No.3-Society. On 26th November, 1997, under a Deed of Sale, the Respondent No. 1 sold and conveyed the 1st Building to Respondent No. 3 and granted lease in respect of the 1st Plot for a period of 99 years commencing from 1st April, 1980. In the month of January, 1999, respondent No.3-Society applied to the Municipal Corporation to put up an additional construction on the 1st Plot by adding 10 tenements to the 1st Building.

167. On 29th August 2003, the Municipal Corporation accorded the occupation certificate in respect of the additional construction of 10 tenements, whose allottees were enrolled as members of the respondent No.3-Society. Thus, respondent No.3-Society now comprises of 70 members.

168. On 04th June 2003, the allottees of the tenements in the 2nd Building formed respondent No.4-Society. On 19th July 2010, under a Deed of Sale, respondent No.1 sold and conveyed the 2nd Building to respondent No.4 and granted lease in respect of the 2nd Plot for a period of 30 years commencing from 27th April 2007.

169. On 23rd May 2018, the Government of Maharashtra notified MHADA as the Planning Authority under the Act for the area mentioned in the Schedule thereunder. It is the case of the petitioners that the said notification applies to the writ property, which is the subject matter of

this petition. On 22nd November 2020, respondent No.4-Society appointed the petitioner as the developer to undertake redevelopment of the 2nd Building by passing a Resolution. On 06th December 2020, respondent No.3 also appointed the petitioner as the developer to undertake redevelopment of the 1st Building.

170. On 24th December 2020, respondent No.4 entered into a development agreement with the petitioners granting development rights in respect of the 2nd Building and the 2nd Plot. On 07th July 2021, respondent No.3 entered into a development agreement with the petitioners granting development rights in respect of the 1st Building and the 1st Plot. On 18th June 2021, the petitioners requested respondent No.1 to grant a NOC for consumption of additional built-up area in respect of redevelopment of the subject property.

171. On 18th August 2021, respondent No.1 accorded its offer letter for redevelopment of the writ property. The petitioners made the requisite payment to respondent No.1 for the issuance of a NOC and an Intimation of Approval (IOA). It is the case of petitioners that respondent No.1-MHADA did not levy any Development Charges in respect of the said property.

172. On 18th November 2021, respondent No.1 demanded a sum of Rs.4,27,900/- towards the scrutiny fees for concession. The petitioners paid the full amount. Respondent No.3 vide letter dated 27th November 2021 requested to issue a NOC after payment of the scrutiny fees for concession. On 06th December 2021, the petitioners informed that respondent No.1 accorded approval to the concession as submitted. The petitioners submitted a set of plans in respect of the redevelopment of the subject property and requested for approval of the same from

MHADA. On 30th December 2021, by a demand notice, respondent No.2 demanded Development Charges amounting to Rs.4,06,31,850/- and Rs.2,36,700/- as the Development Charges for the Welfare Centre. On 07th January 2022, the petitioners filed this petition for various reliefs. On 25th January 2022, this Court admitted this writ petition and granted interim reliefs thereby staying the recovery of Development Charges.

**Submissions of Mr. Samdani, learned senior counsel
for the petitioners in WP (L) No.704 of 2022 :-**

173. Mr. Pravin Samdani, the learned senior counsel for the petitioners relied upon the definition of 'land' under Section 2(14), definition of 'local authority' under Section 2(15), definition of 'owner' under Section 2(18), definition of 'rule' under Section 2(29) and relied upon Sections 44, 124A and 124F of the MRTP Act. He submitted that the definition of 'local authority' includes MHADA.

174. It is submitted that under Section 44 of the MRTP Act, an application is required to be made by every person, who is intending to carry out any development on any land except Central or State Government or Local Authority. The Central Government or State Government or Local Authority is not required to make any application to the Planning Authority for development of any land. It is submitted that under Section 124A of the MRTP Act, there is an obligation on the Planning or Development Authority to levy Development Charges on institution of use or change to use of any land or building or development of any land or building for which an application is required to be made. He submitted that no permission is required by the Central or State Government or the Local Authority and, thus, Development Charges cannot be levied against the Central or State Government of

Local Authority. He submitted that under Section 124A, the Development Charges are leviable on any person, who institutes or changes the use of any land or undertake or carry out any development.

175. It is submitted that the MRTP Act is a complete scheme for planning and development and use of land in the region and, therefore, all the provisions are required to be read together including Sections 44(1), 124A and 124F. The provisions are required to be read textually and contextually as is clear from the provisions of Section 44(1), 124A and 124F. It is submitted that Section 124F is not an exemption to the person undertaking change, instituting change of use or developing. It is an exemption in respect of the land or the building, which is either 'vested in' or 'under control' or 'in possession' of the Central or State Government or Local Authority. If the intention of the legislature was otherwise, it would have plainly and unambiguously made exemption in favour of the Central or State Government or Local Authority.

176. It is submitted that the petitioner is a lessee of MHADA, who is not only the local authority, but also the owner of the property. MHADA has been charging premium to the petitioners. The petitioners have paid premium of Rs.3,61,30,000/- and have been paying annual rent to MHADA.

177. Learned senior counsel relied upon clause 2(i) of the Indenture of Lease dated 19th July 2010 entered into between MHADA and Respondent No.4-Society and submitted that under the said Lease Deed, there was prohibition upon the said respondents not to assign, sub-let or under-let or otherwise transfer in any other manner whatsoever, including parting with possession of the whole or any part of the land or its interest thereunder or benefit of the said lease to any

person or persons or change of user of the said land or any part thereof without the prior written permission of MHADA. Learned senior counsel placed reliance on Section 2(m) of the Lease Deed and submitted that respondent No.4-Society is also prohibited from using Floor Space Index (“FSI”) more than which is provided in the said clause without prior permission of MHADA.

178. It is submitted that under the said Lease Deed, there is a control of MHADA on the said land as prior permission is required for use of FSI, for enhanced lease rent, for permission to redevelop and reconstruction. He submitted that in this case, MHADA has allowed development by letter of offer dated 18/08/2021 and has levied 14.26 crores approximately for permission to use FSI. Learned senior counsel placed reliance on the expression ‘control’ defined in Blacks Law Dictionary, *inter alia*, meaning direct or indirect power or authority to manage. He also relied upon Law Lexicon, more particularly, the expression ‘control’ prescribed therein, which means power to check or restrain; superintendence; management, to restrain; to check; to regulate; to govern; to keep under check; to hold in restraint, etc.

179. Learned senior counsel placed reliance on the following judgments of the Hon’ble Supreme Court:

- (i) **Nagar Palika Nigam v. Krishi Upaj Mandi Samiti & Ors.**(2008) 12 SCC 364
- (ii) **Sri Nasiruddin v. State Transport Appellate Tribunal (1975) 2 SCC 671**
- (iii) **Hyderabad Asbestos Cement Products & Anr. v. Union of India & Ors. (2000) 1 SCC 426**
- (iv) **Sri Jeyaram Educational Trust & Ors. v. A.G. Syed Mohideen &**

Ors. (2010) 2 SCC 513

180. It is submitted by learned senior counsel that the authorities cannot be allowed to add words into Section 124F or to do violence with the plain language of the said provision. It is submitted that the exemption under Section 124F is not exemption granted under sub-Section (2) or sub-Section (3) of the said provision, which is granted by issuing notification.

**Submissions of Mr.Deshmukh, learned counsel
for the Respondent no.1-MHADA
in WP (L) No.704 of 2022 :-**

181. Learned counsel for the respondent no.1 adopted the submissions of Mr.Kumbhakoni, Advocate General in Writ Petition (L) No.9673 of 2022.

FACTS IN WRIT PETITION NO. 2038 OF 2016 :-

182. By this petition filed under Article 226 of the Constitution of India, the petitioners have prayed for a declaration that the provisions of DC Regulation 33(5)(5) are illegal, void and unconstitutional. The petitioners have also prayed for a refund of part amounts of Rs.73,08,178/- collected by respondents from the petitioners. The petitioners have also prayed for a declaration that the respondents are not entitled for levy and / or to demand any development charges from the petitioners in view of the exemption provided under section 124F of the MRTP Act. Some of the relevant facts for the purpose of deciding this petition are as under :

183. The respondent no.3 MHADA is the owner of the writ land bearing nos.3 to 6 at J.V.P.D. Scheme admeasuring 1398 sq. mtrs. bearing CTS Nos.195/139, 195/140, 195/170 and 195/169. Ideal Co-operative

Housing Society was granted a lease on 10th July, 1973 in respect of the said writ land for the purpose of 99 years, for construction of the tenements for use and occupation of members of the said society. It is the case of the petitioners that the said society purchased the additional area admeasuring 178.56 sq. mtrs. from MHADA.

184. The said society handed over an area admeasuring 114.06 sq. mtrs. to the Municipal Corporation for the widening of Gulmohor Road. The construction of the said building was completed on or about the year 1976 and is in dilapidated condition. The said society passed a resolution in its Special General Meeting held on 7th December, 2014 and selected the petitioner no.1 as the developers to redevelop the said property. MHADA gave its no objection certificate to the said society on 11th December, 2014 for selecting the petitioner no.1 as the developers. The said society accordingly executed a development agreement with the petitioner no.1 on 31st October, 2015 which is duly registered.

185. On 7th November, 2015, the respondent no.3 MHADA issued their offer letter for redeveloping the said property upto 3 FSI on payment of Offsite Infrastructure Charges. The petitioners have paid some amount out of the said demand raised by MHADA for payment on account of the Offsite Infrastructure Charges. On 11th May, 2016, MHADA issued an NOC for redevelopment of the said property. On 22nd June, 2016, the respondent no.2 raised a demand for payment of various charges, including the payment of development charges amounting to Rs.3,60,62,000/- as a condition precedent for grant of further permissions / sanctions / approvals for the development project.

186. The petitioner no.1 is carrying out development under Regulation

33(5) of DC Rules, 1991. On 4th August, 2016, the petitioners filed this petition *inter-alia* praying for various reliefs. Learned counsel for the petitioners invited our attention to various exhibits to the petition and adopted the submissions made by Dr.Sathe, learned senior counsel for the petitioners in Writ Petition No.1334 of 2019.

187. MHADA has opposed this petition on various grounds by filing affidavit in reply and also by making several oral arguments. Learned Advocate General also made various submissions in this matter.

**Submissions of Mr.Kumbhakoni, Advocate General
for the respondent no.1- State**

188. Mr.Kumbhakoni, Advocate General for the respondent no.1 State reiterated the submissions made by him in Writ Petition (L) No.9673 of 2022.

REASONS AND CONCLUSION :

189. We have heard the learned counsel for the parties at length and have given our anxious consideration to the rival submissions made. The following questions fell for the consideration of this Court in this batch of petitions :-

- i) Whether section 124F of the MRTP Act has any ambiguity and if it has, whether or not this Court is required to make purposive interpretation of the said provision so as to make the said provision workable and to obviate any absurd result ?
- ii) Whether any benefit under section 124F can be claimed by a third party carrying out redevelopment on the plot owned by the Central Government or State Government or any local Authority ?
- iii) Whether the expression “vested in” or “ under control” or

“possession of” the Central Government or State Government or the Local Authority are disjunctive or the expression “or” has to be read as “and” ?

iv) Whether exemption under section 124F can be availed off only by the Central Government or State Government or the Local Authority itself undertaking a redevelopment or change of use of land or development of its land for its own purposes ?

v) Whether the development charges prescribed under section 124A of the MRTP Act are in the nature of fees or tax and if in the nature of “tax”, whether collection thereof by the respondents under Article 265 of the Constitution of India is with or without authority of law ?

vi) Whether Central Government or State Government or the Local Authority is under any obligation to apply for permission under sections 43 or 44 of the MRTP Act read with DC Regulation, 1991 and Maharashtra Development Plan Rules if redevelopment is being carried out by a third party on the land owned by them or otherwise or not ?

vii) Whether levy of the development charges under section 124A(2) of the MRTP Act is person centric or property centric ?

viii) Whether or not levy of the development charges prescribed under section 124A of the MRTP Act is in the public interest and for the purpose of getting the development fund under section 124J, which fund has to be utilized for the purposes mentioned therein ?

190. Some of the relevant provisions relied upon by the learned counsel for the parties in the batch of these petitions :-

MRTP Act, 1966 :-

(7) “ development ” with its grammatical variations means the carrying out of buildings, engineering, mining or other operations in or over or under, land or the making of any material change, in any building or

land or in the use of any building or land or any material or structural change in any heritage building or its precinct and includes demolition of any existing building, structure or erection or part of such building, structure of erection; and reclamation, redevelopment and lay-out and sub-division of any land; and “ to develop” shall be construed accordingly;

(15) “ local authority ” means—

(a) the Bombay Municipal Corporation constituted under the Bombay Municipal Corporation Act or the Nagpur Municipal Corporation constituted under the City of Nagpur Corporation Act, 1948, or any Municipal corporation constituted under the Bombay Provincial Municipal Corporations Act, 1949;

(19) “ Planning Authority ” means a local authority; and shall includes,—

(a) a Special Planning Authority constituted or appointed or deemed to have been appointed under section 40; and

(b) in respect of the slum rehabilitation area declared under section 3C of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971, the Slum Rehabilitation Authority appointed under section 3A of the said Act;

Sections of the MRTP Act :-

22. Contents of Development Plan

(m) provisions for permission to be granted for controlling and regulating the use and development of land within the jurisdiction of a local authority including imposition of fees, charges and premium, at such rate as may be fixed by the State Government or the planning Authority, from time to time, for grant of an additional Floor Space Index or for the special permissions or for the use of discretionary powers under the relevant Development Control Regulations, and also for imposition of conditions and restrictions in regard to the open space to be maintained about buildings, the percentage of building area for a plot, the location, number, size, height, number of storeys and character of buildings and density of population allowed in a specified area, the use and purposes to which buildings or specified areas of land may or may not be appropriated, the sub-division of plots, the discontinuance of objectionable users of land in any area in reasonable periods, parking space and loading and unloading space for any building and the sizes of projections and advertisement signs and boardings and other matters as may be considered necessary for carrying out the objects of this Act.

124A. (1) Subject to the provisions of this Act, the Planning Authority or the Development Authority (hereinafter in this Chapter collectively referred to as “the Authority”), shall levy within the area of its jurisdiction development charge on the institution of use or change of use of any land or building, or development of any land or building, for which permission is required under this Act, at the rates specified by or under the provisions of this Chapter :

Provided that, where land appurtenant to a building is used for any purpose independent of the building, development charge may be levied separately for the building and the land.

(2) The development charge shall be leviable on any person who institutes or changes the use of any land or undertakes or carries out any development :

Provided that,—

(i) no such development charge shall be leviable under the provisions of this Chapter in respect of use or change of use of any land or building, or development of any land or building, or both, for which a development permission has had already been granted or deemed to have been granted by the Planning Authority or the Development Authority either by way of commencement certificate or by way of any other mode of permission for development granted under this Act or any other law for the time being in force or by way of approval subject to condition in the form of a written notice (Intimation of Disapproval) by the Commissioner under section 346 of the Bombay Municipal Corporation Act, before the 10th day of August 1992, being the date of commencement of the Maharashtra Regional and Town Planning (Amendment) Act, 1992 (hereinafter in this section referred to as “ the said date ”), irrespective of whether or not the institution of use or change of use or actual development work of land or building or both, has been effected or commenced or completed, as the case may be, and whether or not the completion certificate for any such use, change of use or development is granted by the Planning Authority or Development Authority, before the said date ;

(ii) where the development permission for land development, including permission for sub-division of a land, land development or land reclamation not involving any building or construction operations has had already been granted by the Planning Authority or the Development Authority before the said date, no development charge in respect of such land shall be leviable for the land development activities,

irrespective of whether or not development of such land (not involving any building or constructions operations) has actually been commenced or completed before the said date. However, if at a later date, a permission for construction operations is granted, the development charge in respect of such land shall be leviable only for the building or construction activities :

Provided further that, nothing in this chapter shall apply to demolition of any existing building, structure or erection, or part of such building, structure or erection.

124B. (1) (a) For the purposes of assessing the development charge, the user of land and building shall be classified under the following categories, namely :—

- (i) Industrial ;
- (ii) Commercial;
- (iii) Residential;
- (iv) Institutional.

(b) In classifying the user of land and building under any of the categories mentioned in clause (a), the predominant purpose for which such land and building is used shall be the basis for such classification.

2(2) On and from the date of commencement of the Maharashtra Regional and Town Planning (Amendment) Act, 2010, development charge shall be levied and collected by the Authority at the rates specified in column (4) of the Second Schedule; and the Authority may, subject to the other provisions of this Chapter, enhance, from time to time, the rate specified in column (4) of the Second Schedule and levy the development charge at such enhanced rate :

Provided that, the Authority may, subject to the other provisions of this Chapter, reduce, from time to time, the enhanced rate and levy development charge at such reduced rate, so however that in no case the rate shall be reduced below the rate specified in column (4) of the Second Schedule.

(2-1A) In respect of the area under the jurisdiction of any Planning Authority or a New Town Development Authority under this Act, where State Government declares its intention to undertake one or more Vital Urban Transport Projects, the development charges levied and collected under the provisions of sub-section (2) shall be increased by one hundred per cent.

Explanation.—For the purpose of this section, the term “Vital Urban Transport Project” means a project related to Mas Rapid Transport System such as Metro Rail, Mono Rail Bus Rapid Transport System and includes Freeway, Sealink, Etc., in respect of which the State Government has by notification in the Official Gazette, declared the intention to undertake such project either on its own behalf or through the Planning Authority, a New Town Development Authority, any other statutory authority, an agency owned and controlled by the Central Government or State Government, or a Government company incorporated under the provisions of the Companies Act, 2013 or any other law relating to companies for the time being in force.

2(2A) Notwithstanding anything contained in sub-section (1), when the Maharashtra Industrial Development Corporation is the Special Planning Authority deemed to have been appointed as such under sub-section (1A) of section 40, for a notified area under its jurisdiction as provided in the said sub-section (1A), it shall be lawful for such Planning Authority to levy within such notified area, the development charges at such rate which may be lower than the rates specified by or under the provisions of this Chapter, as it may fix, from time to time.

(3) The Authority, before enhancing or reducing the rate and levying the development charge at such rate shall observe the following preliminary procedure, namely :—

(a) the Authority shall, by a resolution passed at a special meeting, approve the regulations prescribing the rates of the development charge proposed to be levied by it ;

124F. (1) No development charge shall be levied on institution of use or of change of use, or development of, any land or building vested in or under the control or possession of the Central or State Government or of any local authority.

(2) Subject to such conditions as it may impose, the State Government may, by notification in the Official Gazette, exempt partially from the payment of development charge payable on the development of any land or building which is proposed for warehouse or godown or by any educational institution, medical institution or charitable institution.

(3) Notwithstanding anything contained in sub-section (1) and (2), the State Government may, by notification in the Official Gazette and subject to such terms and conditions as may be specified therein, exempt partially a Special Township Project undertaken by a private

developer under the Special Development Control Regulations made under the provisions of this Act, from payment of the development charges.

124G. (1) Any person aggrieved by an order passed by the Authority under section 124E may prefer an appeal to the State Government or to such an officer as may be appointed by the State Government in this behalf, being an officer not below the rank of Deputy Secretary to the Government; and such appeal shall be made in such manner and accompanied by such fees, as may be prescribed.

(2) The State Government or the officer so appointed may, after giving a reasonable opportunity to the appellant and the Authority, of being heard, by an order confirm, reduce, enhance or annul the assessment.

(3) Where the assessment is annulled or set aside in an appeal, the State Government or such officer deciding the appeal may direct the Authority to make a fresh assessment after such further enquiry as may be directed.

(4) Every order passed in appeal under this section shall be final and shall not be questioned in any suit or other legal proceedings.

43. Restriction on development of land:-

After the date on which the declaration of intention to prepare a Development plan for any area is published in the Official Gazette 1 or after the date on which a notification specifying any undeveloped area as a notified area, or any area designated as a site for a new town, is published in the Official Gazette, no person shall institute or change the use of any land or carry out any development of land without the permission in writing of the Planning Authority :

Provided that, no such permission shall be necessary—

(i) for carrying out works for the maintenance, improvement or other alteration of any building, being works which affect only the interior of the building or which do not materially affect the external appearance thereof except in case of heritage building or heritage precinct;

(ii) the carrying out of works in compliance with any order or direction made by any authority under any law for the time being in force ;

(iii) the carrying out of works by any authority in exercise of its powers under any law for the time being in force :

(iv) for the carrying out by the Central or the State Government or any local authority of any works—

- (a) required for the maintenance or improvement of a highway, road or public street, being works carried out on land within the boundaries of such highway, road or public street ;
- (b) for the purpose of inspecting, repairing or renewing any drains, sewers, mains, pipes, cable, telephone or other apparatus including the breaking open of any street or other land for that purpose ;
- (v) for the excavation (including wells) made in the ordinary course of agricultural operation ;
- (vi) for the construction of a road intended to give access to land solely for agricultural purposes ;
- (vii) for normal use of land which has been used temporarily for other purposes;
- (viii) in case of land, normally used for one purpose and occasionally used for any other purpose, for the use of land for that other purpose on occasions;
- (ix) for use, for any purpose incidental to the use of a building for human habitation of any other building or land attached to such building.

44. Application for permission for development :-

(1) Except as otherwise provided by rules made in this behalf, any person not being Central or State Government or local authority intending to carry out any development on any land shall make an application in writing to the Planning Authority for permission in such form and containing such particulars and accompanied by such documents, as may be prescribed :

Provided that, save as otherwise provided in any law, or any rules, regulations or by-laws made under any law for the time being in force, no such permission shall be necessary for demolition of an existing structure, erection or building or part thereof, in compliance of a statutory notice from a Planning Authority or a Housing and Area Development Board, the Bombay Repairs and Reconstruction Board or the Bombay Slum Improvement Board established under the Maharashtra Housing and Area Development Act, 1976.

(2) Without prejudice to the provisions of sub-section (1) or any other provisions of this Act, any person intending to execute an Integrated Township Project on any land, may make an application to the State Government, and on receipt of such application the State Government may, after making such inquiry as it may deem fit in that behalf, grant such permission and declare such project to be an Integrated Township Project by notification in the Official Gazette or, reject the application.

45. Grant or refusal of permission:-

(1) On receipt of an application under section 44 the Planning Authority may, subject to the provisions of this Act, by order in writing—

(i) grant the permission, unconditionally ;

(ii) grant the permission, subject to such general or special conditions as it may impose with the previous approval of the State Government ;
or

(iii) refuse the permission.

(2) Any permission granted under sub-section (1) with or without conditions shall be contained in a commencement certificate in the prescribed form.

(3) Every order granting permission subject to conditions, or refusing permission shall state the grounds for imposing such conditions or for such refusal.

(4) Every order under sub-section (1) shall be communicated to the applicant in the manner prescribed by regulations.

(5) If the Planning Authority does not communicate its decision whether to grant or refuse permission to the applicant within sixty days from the date of receipt of his

application, or within sixty days from the date of receipt of reply from the applicant in respect of any requisition made by the Planning Authority, whichever is later, such permission shall be deemed to have been granted to the applicant on the date immediately following the date of expiry of sixty days :

Provided that, the development proposal, for which the permission was applied for, is strictly in conformity with the requirements of all the relevant Development Control Regulations framed under this Act or bye-laws or regulations framed in this behalf under any law for the time being in force and the same in no way violates either the provisions of any draft or final plan or proposals published by means of notice, submitted for sanction under this Act :

Provided further that, any development carried out in pursuance of such deemed permission which is in contravention of the provisions of the first proviso, shall be deemed to be an unauthorised development for the purposes of sections 52 to 57.

(6) The Planning Authority shall, within one month from the date of issue of commencement certificate, forward duly authenticated copies of such certificate and the sanctioned building or development plans to the Collector concerned.

Development Control Regulation, 1991

Rule 4. Development Permission and Commencement Certificate:-

(1) Necessity of obtaining permission:—No person shall erect or re-erect a building or alter any building or carry out any development or redevelopment, on any plot or land or cause the same to be done without first obtaining separate development permission and a commencement certificate from the Commissioner.

(2) Items of operational construction by some authorities excluded:—Construction for operational purposes, including maintenance of operational structures, by the following organisations, authorities or departments, whether temporary or permanent, may be exempted by the special permission of the Commissioner in each case from the purview of these Regulations, except those relating to floor space index and fire precautions :—

- (i) Railways;
- (ii) National Highways;
- (iii) National Waterways;
- (iv) Major Ports;
- (v) Aerodromes and Airports;
- (vi) Posts and Telegraphs, Telephones, Television. Wireless, Broadcasting authorities and the authorities of other similar forms of communication;
- (vii) Regional grids, towers, gantries, switchyards, contact rooms for distribution, etc. of electricity;
- (viii) Defence Authorities;
- (ix) Any other essential public service as may be notified by the State Government.

All such constructions shall, however, conform to the prescribed requirements for the provision of essential services, water supply connections, drains, etc. to the satisfaction of the Commissioner.

(3) Operational constructions excluded:—

The following constructions for operational purposes of the organisations, authorities or departments listed above are exempted from the purview of these Regulations except those relating to floor space index and fire precautions :—

- (i) Repairs and renovation of existing installations or building used for operational purposes only which do not involve addition to or increase of built-up area.
- (ii) In the case of the Railways—

(a) repairs and renovation of existing railway tracks, including culverts, over-bridges, under-passes or bridges, tunnels and side drains;

(b) platforms, goods sheds and offices, parcel offices, sub stations, foot-over bridges, turn-tables, lifting towers, gantries, signal and signal boxes or control cabins in hump yards;

(c) running (loco) sheds, carriage and wagon depots, carriage washing places, overhead or ground level water tanks, pipelines and pumping stations, running rooms, train examiners' offices, yard depots, permanent way inspectors' stores and signal inspectors' stores in railway yards and all overhead electric equipment for traction.

(iii) Store sheds, when ancillary to operational requirement only;

Provided that, for the construction of new railway lines or tracks the approval of the State Government shall be necessary. For construction of new buildings, goods stores, sheds or platforms, parcel offices and workshops or for purposes of major remodelling the approval of the Commissioner shall be necessary.

Further provided that, the following constructions by the organisations, authorities or departments listed in sub-regulation (2) herein shall not be deemed to be operational for the purpose of exemption under the said Regulations, namely:—

(i) Residential buildings, commercial buildings, office buildings and industrial buildings (other than gate lodges, essential operational staff quarters and the like), roads and drains, hospitals, clubs, institutes and schools in residential, commercial or industrial areas of the colonies of such organisations, authorities or departments.

(ii) Construction, installation or any extension of any building in the case of any services other than those mentioned in this Regulation.

5. Procedure for obtaining Development Permission and Commencement Certificate:-

(1) Notice of intention:—Every person who intends to carry out a development or redevelopment, erect or re-erect a building or alter any building or part of a building shall give a notice in writing to the Commissioner of his said intention in the form in Appendix X and such notices shall be accompanied by plans and statements with sufficient number of copies, as required by sub-regulation (2) and (i) hereunder. The plans may be ordinary prints. One set of such plans shall be retained in the office of the Commissioner for record after the issue of

permission or refusal.

(2) Copies of plans and statements.— (i) Notice:—The notice referred to in sub-regulation (2) of Regulation 6 shall be accompanied by as many copies of plans as the Commissioner may prescribe after taking into consideration the clearances required from other agencies. (ii) Size:—The size of drawing sheets shall be any of those specified in Table I hereunder.

33 Additional Floor Space Index which may be allowed in certain categories:-

(5) Development/redevelopment of Housing of Maharashtra Housing & Area Development Authority -

(1) The FSI for a new constructed tenements scheme of Low cost housing schemes of the Maharashtra Housing and Area Development Authority.—The floor space index for low cost housing schemes for economically weaker sections and low income groups of the Maharashtra Housing and Area Development Authority, having at least 60 per cent of the tenements under Economically Weaker Sections (EWS) and Low Income Group (LIG) categories, shall be allowed to be increased by 20 per cent over and above the normally permissible FSI. For the purpose of calculating the FSI, the entire area of the layout shall be considered and under-utilised F.S.I, of the economically weaker section and low income group scheme areas may be permitted to be utilised for Higher Income Group (HIG), Middle Income Group (MIG) and other amenities in the Scheme. Sub-division of plots will be permissible on the basis of compulsory open spaces as in these Regulations. This F.S.I will be subject to the Regulations in Appendix I hereto.

(7) Reconstruction and redevelopment of cessed buildings in the Island City by Co-operative Housing Societies or of old buildings belonging to the Corporation:—

For reconstruction/redevelopment to be undertaken by Co operative Housing Societies of existing tenants or by Co-operative Housing Societies of" landlords and/or Occupiers of a cessed building of 'A' category in Island City, which attracts the provisions of MHADA Act, 1976, and for reconstruction/redevelopment of the buildings of the Corporation constructed prior to 1910, the floor space index shall be 2.5 on the gross plot area or the FSI required for Rehabilitation of existing tenants plus incentive FSI as specified in Appendix III, whichever is more. Provided, however that with the previous approval of the Government, MHADA/Corporation shall be eligible to get additional incentive FSI over otherwise permissible FSI as specified in Annexure III of these Regulations. Provided further that in

cases of composite redevelopment scheme for plot having 'A' category as also 'B' category cessed buildings the above FSI shall be available. Provided further that in cases of, reconstruction/redevelopment of buildings which have been declared as unsafe by the BHAD Board prior to monsoon of 1997. the above FSI will be available irrespective of category cessed building. Provided further, that reconstruction/redevelopment undertaken by proposed Co- operative Housing Societies of Landlords and/or Occupiers of a cessed building of 'B' category, and where composite development is undertaken by different owners of 5 or more plots the FSI required for Rehabilitation of existing tenants plus incentive FSI as specified in Appendix III will be available.

Development Control and Promotion Regulations for Greater Mumbai, 2034

9. Development permission and commencement certificate :-

(1) Necessity of obtaining permission: No person shall erect or re-erect a building or alter any building or carry out any development or redevelopment, on any plot of land or cause the same to be done without obtaining development permission and a commencement certificate from the Commissioner.

(2) Items of operational construction by some authorities excluded: Construction for operational purposes, including maintenance of operational structures, emergency/essential staff quarters by the following organizations, authorities or departments, whether temporary or permanent, may be exempted from the purview of these Regulations, except those relating to floor space index and fire precautions: i.Railways; ii.National Highways; iii.National Waterways; iv.Major ports; v.Aerodromes and Airports; vi.Posts and Telegraphs, Telephones, Television, Wireless, Broadcasting authorities and the authorities of other similar forms of communication; vii.Regional grids, towers, gantries, switchyards, control room, Relay room for transmission, distribution, etc. of electricity; viii.Defence Authorities; ix.Any other essential public services as may be notified by the State Government. x.Metrorail Administration(MRA)/Project Implementing Agency designated by the Government for the Metro Rail and Monorail/Light Rail Transit (LRT) Projects. xi.Facilities & services of Municipal Corporation of Greater Mumbai such as Roads, Water Supply, Sewerage, Storm Water Disposal and any other essential public services as decided by the Municipal Commissioner. All such constructions shall, however, conform to the prescribed requirement for the provision of essential services, water supply connections, drains, etc. to the satisfaction of the Commissioner.

(3) Operational constructions excluded: The following constructions for operational purposes of the organizations, authorities or departments listed above are exempted from the purview of these Regulations except those relating to floor space index and fire precautions:

(i) Repairs and renovation of existing installations of buildings used for operational purposes alone and which do not involve addition to or increase of built-up areas.

(ii) In the case of the Railways/Metro Rail and Monorail/LRT Authority:

a) repairs and renovation of existing railway tracks, including culverts, over bridges, under-passes or bridges, tunnels and side drains;

b) platforms, goods sheds and offices, parcel offices, sub-stations, foot-over bridges turn-tables, lifting towers, gantries, signal and signal boxes or control cabins in hump yards;

c) running (loco) sheds, carriage and wagon depots, carriage washing places, overhead or ground level water tanks, pipelines and pumping station; running rooms, train examiners' offices, yard depots, permanent way inspectors' and signal inspectors' stores in railway yards and all overhead electric equipment for traction.

d) Operational Control Centre, Playback Training Room, Stabling Yards, Maintenance Workshop, Auto wash plant, Auxiliary Rail Vehicle Building, Under Floor Wheel Lathe & Blow Down Plant, Cooling Tower, Generator Area, Auxiliary Substation, Traction Substation, Transformer Area, Water Treatment Plant, Wastewater Treatment Plant, Depot, Control Centre, Sump Area, Parking Check post, Loading & Unloading Areas, Fouling Points, DG Set Rooms, Metro& Mono Stations(Underground& Elevated),Via duct & Tunnel, Ventilation Shaft, Entry/Exit Block, Passages, Underground Passages to Station Box, Lift/Staircases, Escalators ,Air Handling Unit. (iii) Store sheds, when ancillary to operational requirement only;

Provided that, for the construction of new railway lines or tracks the approval of the State Government shall be necessary. For construction of new buildings, goods stores, sheds or platforms, parcel offices and workshops or for purposes of major remodeling, the approval of the Commissioner shall be necessary

Further provided that, the following constructions by the organizations, authorities or departments listed in sub-Regulation (2) herein shall not be deemed to be operational for the purpose of exemption under the said Regulations, namely: -

(i) Residential buildings, commercial buildings, office buildings and industrial buildings (other than gate lodges, essential operational staff quarters and the like), roads and drains, hospitals, clubs, institutes and schools in residential, commercial or industrial areas of the colonies of such organizations, authorities or departments.

(ii) Construction, installation or any extension of any building in the case of any service other than those mentioned in this Regulation.

(4) Exclusion from requirement of permissions: -No permission shall be required to carry out tenable repair works to existing buildings, which have been constructed with the approval from the competent authority or are in existence since prior to 17.04.1964 in respect of residential structures and 01.04.1962 in respect of non-residential structures, as described under section 342 of MMC Act 1888.No permission shall be required for provision of safety grills to window/ventilator.

No permission shall be required for repairs to the Existing Consumer/Distribution/Receiving Substation of the BEST/Electric Supply Company. However, no addition/alteration shall be permissible without the approval of the Commissioner.

No permission shall be required for installation of Solar Panels having base of solar panel at height 1.8m from terrace, ensuring structural stability from the Licensed Structural Engineer.

No permission shall be required for internal light weight partitions/cabins up to height of 2.2 in the commercial building/establishment subject to structural stability from the Licensed Structural Engineer. Further internal light weight partitions/cabins up to floor height will be permissible if it satisfies the criteria for light and ventilation and other requirements of these regulations certified by the Architect/Licensed Surveyor/Town Planner, fire safety requirements certified by fire safety consultant and subject to structural stability from the Licensed Structural Engineer.

Regulations 10. Procedure for obtaining Development Permission and Commencement Certificate.

(1) Notice of intention: Every person who intends to carry out development or redevelopment, erect or re-erect a building or alter any building or part of a building shall give notice in writing to the Commissioner of his said intention in the form in Appendix II and such notice shall be accompanied by plans and statements with sufficient number of copies, as required by sub-Regulations (2) and (3) hereunder. The plans may be ordinary prints. One set of such plans shall be retained in the office of the Commissioner for record after the issue of permission or refusal. The Commissioner may set a policy by which all submissions, approvals and communication in regard to development permission shall be online.

(2) Copies of plans and statements:

(i) Notice: The notice referred to in sub Regulations (2) of Regulation No 11 shall be accompanied by as many copies of plans as the Commissioner may prescribe after taking into consideration the clearances required from other agencies.

(ii) Size: The size of drawing sheets shall be any of those specified in Table 1 hereunder.

(5) Processing of the development permission application:

(i) Grant of permission or refusal. - The Commissioner may either sanction or refuse to sanction the plans and specifications or may sanction them with such modifications or directions as he may deem necessary, and thereupon, he shall communicate his decision accordingly to the person giving the notice in the formats specified in Annexure 11 and 12

191. Admittedly in Writ Petition No.1334 of 2019, the respondent no.2 Municipal Corporation is the owner of the said writ property. The Municipal Corporation had already developed portion of the writ land by constructing 10 chawls of ground plus one upper floor and tenements therein occupied by 194 occupants who are tenants of the Municipal Corporation.

192. The respondent no.2 Corporation is also a planning authority under the provisions of the MRTP Act and collects development charges under Chapter VI A of the MRTP Act. The petitioner no.1 society granted redevelopment rights in respect of the writ property to the petitioner no.2. It is an admitted position that the petitioner no.2 proposed to undertake redevelopment under Regulation 33(7) of the DCR 1991. The petitioner no.2 is constructing a composite Building Rehabilitation Component (3 wings). The petitioner no.2 is constructing building no.2 comprising of Free Sale competent on Plot B of the said land.

193. It is an admitted position that the respondent no.2 Corporation

had issued an Intimation of Disapproval (IOD) granting its sanction for redevelopment. In the said IOD issued by the Municipal Corporation, it was clearly provided that the development charges will have to be paid prior to the issuance of a commencement certificate. The Municipal Corporation granted various sanctions in favour of the petitioners for carrying out redevelopment under modified DCR 33(7) of the Municipal property as a planning authority.

194. In the LOI issued by the Municipal Corporation, it was provided that the Municipal Corporation was having ownership of both the plots. The petitioner no.1 society had collected redevelopment charges on the said writ land. It was one of the conditions that the petitioner would get sub-division of both the plots after determining the area of the plots from the City Surveyor Land Records before obtaining NOC for construction of the saleable building, and that the society will submit a Property Card in the name of Brihanmumbai Municipal Corporation after getting the approval for separate city survey numbers of both the plots.

195. The said LOI also indicated the total area permitted by the Municipal Corporation as a planning authority to be developed by the petitioners. The said LOI also provided the construction area required for rehabilitation of the existing residents and the promotional area on it. Various charges were required to be paid by the petitioners to the planning authority under the said LOI.

196. It was provided in the LOI that as per the policy of the Municipal Corporation, the Developer will submit the division/ consolidation of the plots before approval of the building layouts. The said land will be given on lease to the petitioner no.1 society for a period of first 30 years from the date of Commencement Certificate for the construction

of the building. The lease will be renewed for further 30 years at the discretion of the respondent no.2 Corporation and it will be binding upon the Co-operative Society/Societies. Upon the relative approval of the Improvements Committee/Municipal Corporation, annual rent for the said land would be minimum Rs.1000/- at the rate of Rs.1/- per sq.mtr.

197. In Clause 7 of the said LOI, it was provided that the tenants from the present building who have not been members of the Co-operative Housing Society will have to become members of the society before giving Appendix-2. It was provided that it would be the responsibility of the society/developer to arrange for an accommodation of the municipal tenants from the present building in the transition camp, at their own cost, during the period of construction work and it will not be the responsibility of the Municipal Corporation to provide accommodation in the transit camp or make available the alternate place.

198. It was provided that raising fund for the reconstruction / redevelopment scheme will be the responsibility of the society/developer. The Municipal Corporation will not offer any loan or help in that regard. Though the Municipal Corporation provided that the residential flat that was to be constructed for the present tenants should have a minimum carpet area of 300 sq.ft., it was made clear that there was no limit with respect to the area for the flats in the saleable component.

199. It was provided that the society/developer will pull down the old buildings at their own cost and will make arrangements for transit camps for the tenants affected by the redevelopment work. In Clause

29(E) of the said LOI, it was provided that after completion of the rehabilitation building, the society will have to distribute/allot every member of the society (municipal tenant) a flat on ownership basis as per the Appendix-2 prepared by the Assistant Commissioner (Property) / Assistant Commissioner (F/South) Division.

200. In Clause 29(F)(13) of the said LOI, it was provided that it is binding to submit an Indemnity Bond jointly giving right to the Municipal Corporation for any kind of surcharge, claim/right, damages. In Clause 29(F)(13). It was provided that the petitioner society will transfer 25% of construction area of the total land reserved for public purpose, in the form of flats to the Municipal Corporation. In Clause 29(F)(22), it was provided that as per Section 44/69 of the Maharashtra Regional and Town Planning Act, 1966, for any kind of development/ redevelopment, vide Section 124A of the said Act, any other fees will be payable by the Developer/applicant seeking permission.

201. Admittedly, none of these conditions prescribed in the LOI issued by the Municipal Corporation as a planning authority have been challenged by the petitioners. Various charges payable by the petitioners under the said LOI have been paid from time to time. Name of the Municipal Corporation was also included in the Property Card as owner. It is not in dispute that in the revised LOI dated 17th February 2020 issued by the Municipal Corporation, it has granted FSI permissible under the said Regulation 33(7) in case of such redevelopment being done by the petitioners under the said provision.

202. In the said revised LOI also, the Corporation agreed that the said plot shall be given on lease to the society for first 30 years from the date of commencement certificate and the term of the said lease shall

be extended for further 30 years as per the discretion of the Municipal Corporation. In Clause 13(F)(22), it was provided that as per Sections 44/69 of the Maharashtra Regional and Town Planning Act, 1966, the development charges and any other charges as provided in the Act under Section 124A for any type of development/redevelopment shall be applicable to any developer/applicant seeking permission.

203. On the basis of the condition of IOD, the Municipal Corporation as a planning authority sanctioned various plans submitted by the petitioners for carrying out redevelopment under Regulation 33(7) of the DCR, 1991. The Corporation also raised various bills for payments of various taxes and also development charges upon the petitioners. The petitioners have paid all such charges to the Municipal Corporation and have now prayed for refund. The petitioners have been granted benefits of larger FSI for carrying out redevelopment under Regulation 33(7) and also are permitted to carry out construction of 3 wings for Free Sale Component in Building No.1 on Plot A and also Building No.2 on Plot B of the said land.

204. It is not in dispute in this case that the petitioners had applied for permission of the Municipal Corporation for carrying out redevelopment under Regulation 33 (7) of the said DCR. The Municipal Corporation had not made any application for redevelopment of the writ land.

205. We shall now decide the issue as to whether the Municipal Corporation being the owner of the land was at all required to make an application for permission for development under Section 44 of the MRTP Act read with the provisions of DCR, 1991 or DCPR, 2034 or under the Maharashtra Development Plan Rules, 1970. The term "development right" is defined under Section 2(9A) and "local authority"

is defined under Section 2(15) of the MRTP Act. The respondent no.2 Corporation is the local authority constituted under the MMC Act within the meaning of Section 2(15) of the MRTP Act. Section 2(18) defines "owner." Section 2(19)(a) defines "Special Planning Authority."

206. Section 43 of the MRTP Act clearly provides for the Restriction on development of land after the date on which the declaration of intention to prepare a Development Plan for any area is published in the official gazette, without the permission in writing from the Planning Authority subject to the proviso prescribed under the said provision. Any development proposed to be carried out by a developer or by a private party would add to additional population in the area, causing pressure on the amenities already in existence which would increase the burden on the local authority to meet the needs of additional population in the area.

207. Section 22 of the MRTP Act provides for Contents of Development Plan. Section 22(m) of the MRTP Act provides for provisions for permissions to be granted for controlling and regulating the use and development of land within the jurisdiction of a local authority including imposition of fees, charges and premium, at such rate as may be fixed, by the State Government or the Planning Authority, from time to time, for various permissions and for grant of additional Floor Space Index (FSI).

208. Under Regulation 4 (1) of the DCR, it is provided that no person shall erect or re-erect a building or alter any building or carry out any development or redevelopment, on any plot or land or cause the same to be done without first obtaining development permission and a commencement certificate from the Commissioner. Regulation 4(2)

provides for the exclusion or exemption for carrying out construction for operational purposes by various organisations, authorities or departments by the special permission of the Commissioner except those relating to floor space index and fire precautions. Every application under Section 44 for permission to carry out development on any land has to be made in Form-I of Maharashtra Development Plan Rules, 1970.

209. Regulation 9 in Part II of DCR, 1991 provides for General Planning Requirements, Land Uses and Manner of Development. Under Regulation 5, a procedure prescribed for development permission and commencement certificate. Each person who obtains permission to carry out development or redevelopment, erect or re-erect a building shall give a notice in writing to the Commissioner of his intention in the form in Appendix X and such notice shall be accompanied by the plans and statements with sufficient number of copies as required by the Regulations (2) and (3). Similar provisions are also quoted in Regulations 9 and 10 of DCPR 2034.

210. Second proviso to Regulation 4 makes it clear that (i) residential buildings, commercial buildings, office buildings and industrial buildings, roads and drains, hospitals, clubs, institutes and schools in residential, commercial or industrial areas of the colonies of such organisations, authorities or departments, (ii) Construction, installation or any extension of any building in the case of any services other than those mentioned in the said Regulation to be carried out by the organisations, authorities or departments listed in Regulation 4(2) shall not be deemed to be operational for the purpose of exemption under the said Regulation. It is thus clear that exemption granted under Regulation 4 for seeking permission for development is not applicable to the

residential buildings even if any such development of the residential buildings is carried out by the authorities specified by Regulation 4 of the DCR, 1991.

211. Section 58 of the MRTP Act provides for development to be undertaken on behalf of the Government. It is clearly provided that when any Government intends to carry out development of any land for the purpose of any of its departments or offices or authorities, the officer in charge thereof has to inform in writing to Planning Authority the intention of Government to do so, giving full particulars thereof and the same shall be accompanied by required documents and plans. The Planning Authority is empowered to raise any objection to the proposed development on various grounds.

212. Rule 14 of the Maharashtra Development Plan Rules, 1970 which relates to development to be undertaken on behalf of the Government prescribes such documents and plans referred to in Section 58. Section 58(4) of DCR 1991 provides that the provisions of Sections 44, 45 and 47 shall not, and Section 46 shall, *mutatis mutandis* and Section 48 shall, as modified by sub-section (3A) shall apply to developments carried out under that section.

213. We have perused the Statement of Objects and Reasons for enacting Sections 124 A to 124L inserted by Mah.XVI of 1992 in the MRTP Act. The Statement of Objects and Reasons clearly provides that the State Government has taken into consideration the fact that there is a distinct and discernible trend towards urbanisation. This process of rapid organization has brought in its wake human settlement and in turn the development of virgin or undeveloped lands in the form of buildings, to accommodate such settlements resulting in haphazard

development of such lands without the necessary infrastructure of roads, water supplies, sewerage, drainage of storm water, electricity and street lights, etc.

214. The MRTP Act has been enacted to provide for planned development of urban areas, by providing, inter alia for constitution of Regional Planning Boards, for preparation of Development plans and creation of new towns by means of constitution of Special Planning and Development Authorities. All these plans and Schemes being capital intensive, the said authorities have not been able to achieve the desired results, mainly on account of 'lack of adequate funds for effective implementation of such Development Plans or Town Planning Schemes. It is, therefore, imperative to mobilize additional resources for being placed at the disposal of Planning or Special Planning or Development Authority constituted under the said Act for effective implementation of the provisions of the said Act and to provide for proper amenities and facilities for the healthy growth of these cities and towns.

215. It is further provided in the Statement of Objects and Reasons that the existing provisions of the MRTP Act do not contain any provisions for levy and collection of development charges by such authority. It is, therefore, decided to suitably amend the said Act to provide for levy, assessment and recovery development charge by such authority on institution of use or change of use, of any land or building, or development of any land or building, for which permission is required under the said Act.

216. The State Government accordingly inserted a new Chapter VIA containing appropriate provisions for such levy, assessment, and

collection of development charge by the Planning or the Development Authority, initially at the minimum rate specified in the Second Schedule. The Second Schedule specifies the minimum and maximum rates of development charge with reference to the user of land or building in the area of the different Municipal Corporation or Councils.

217. It is further provided that in order to ensure that the proceeds of the development charge to be levied and collected by the Development authority are utilised by the said Authority only for the purposes of planned development of the area within its jurisdiction. It is also provided that a separate fund namely "Development Fund" shall be created and shown separately in the budget.

218. A perusal of the Statement of Objects and Reasons of substituting the words "on the development of any land or building which is proposed for warehouse or godown or by any educational institution, medical institution or charitable institution" for the words "on the development of any land or building by any educational institution, medical institution or charitable institution" indicates that the said provision was substituted with a view to allow private sector to develop special townships with all required infrastructure. It was considered necessary to partially exempt development charges payable, on development of land and buildings in Special Township Projects which will not only boost the planned development of any neglected area but also reduce the pressure on urbanisation of new metropolitan area.

219. It is thus clear that the State Government is empowered by notification in the official gazette to exempt partially even to private sector developing Special Township for warehouse or godown or by any educational institution or medical installation or charitable institution. No

such provision is made in the said Section 124 F providing for exemption from payment of development charges in case of development being carried out by the developers on commercial terms.

220. The Statement of Objects and Reasons for enacting each of the provisions for subsequently inserting the amendment in Section 124F (2) clearly indicates that the said payment of development charge is exempted in cases where the Central Government, State Government or Local Authority is itself undertaking the activity of institution or change of use or development of its land or if the development is carried out at the instance of or for the benefit of the Central Government, State Government or Local Authority. The exemption is also granted to Central Government, State Government or Local Authority if the development or institution of use or change of use of land/building is for its own benefit.

221. The Central Government, State Government or Local Authority shall have use, enjoyment, occupation, possession and control of the land or building. Special exemption is granted under section 124F(2) subject to the notification that can be issued by the State Government or not in any other case. In the facts before this Court, it is clear that though the land is owned by one of these authorities i.e. either State Government or Municipal Corporation or MHADA, the fact remains that upon redevelopment of these plots by the developer, the building would be owned by either the society or occupants for whose benefits these buildings would be developed not only for rehabilitating the occupants but also for disposal of the surplus tenements for consideration.

222. There is dual ownership i.e. one of the land owned by the

authorities and the other is the ownership of the structures that would be owned by flat purchasers or existing tenants given on ownership basis and the flats being sold for consideration. It is not the case of any of the petitioners that the buildings that would be constructed by the developer on the land owned by the State Government or Municipal Corporation or MHADA would be owned by any of these authorities.

223. There is no merit in the submission of the learned senior counsel for the petitioners that the development charges under Section 124 A of the MRTP Act is on the land and not on the user. In our view, this submission made by the learned senior counsel for the petitioners is ex facie contrary to and plain interpretation of charging Section 124A of the MRTP Act. In our view, levy under Section 124A of the MRTP Act is person centric and not property centric.

224. In so far as the submission of the learned senior counsel for the petitioners that the word "or" used in Section 124F i.e. "vested in" or "under the control" or "possession" of the Central or State Government or of any local authority is disjunctive or not is concerned, in our view, Mr.Chinoy, learned senior counsel for the respondent Corporation is right in his submission that Section 124 F of the MRTP Act does not refer or use the word "owned" by the local authority. In our view, Section 124 F does not indicate legislative intent to exempt from liability to pay development charge on development being carried out by third party on the land which are owned by the Government or local authority.

225. In these cases, the petitioners-societies/developers have undertaken development/redevelopment independently of any local authority and in their own right and for their own benefit and not for the benefit of the State Government or Central Government or local

authority. The term “vested in” cannot be equated with the word “ownership.” The petitioner are not the contractors of the Government Corporation or the local authority but have intended to develop/redevelop by availing of the benefits conferred on such development under DCR in the nature of additional FSI by way of incentive which can be sold in market.

225. We shall now decide the issue as to whether any permission is necessary at all for the development on the land owned by the Government/MHADA or any other planning authority if carried out by such authority and the Government itself or by the developer on the land owned by the developer or society redeveloping such land vested in or under the control or possession of the Government or any local authority.

226. Section 43 of the MRTP Act provides for embargo on development of land unless the procedure prescribed therein is followed. No person is allowed to institute or change the use of any land or carry out any development of land without the permission in writing of the planning authority after the date on which the declaration of intention to prepare a Development Plan for any area is published in the official gazette subject to proviso mentioned therein.

227. Insofar as the proviso (iv) to Section 43 is concerned, it clearly indicates that such person under Section 43 is not required for the carrying out by the Central Government or State Government or any local authority of any works specifically mentioned therein. The said proviso does not indicate that if for any other purpose other than specifically mentioned in proviso (iv) to Section 43, if any construction is carried out even by the Central Government or State Government

or any local authority is carried out on the land vested in or under the control or possession of the Central Government or State Government or of any local authority such permission is not required.

228. Section 44 of the MRTP Act provides for application for permission for development in certain circumstances. Section 22(m) of the MRTP Act provides as to what a Development plan shall generally indicate. Regulation 4 of DCR, 1991 excludes construction for operational purposes, including maintenance of operational structures, by the organisations, authorities or departments specifically mentioned therein whether temporary or permanent, may be exempted by the special permission of the Commissioner in each case from the purview of these Regulations, except those relating to floor space index and fire precautions. Even the said provision clearly provides that all such constructions shall, however, conform to the satisfaction of the Commissioner.

229. A perusal of Regulation 3 of the DCR, 1991 also clearly indicates that the said provision provides for exclusion of certain construction by exemption from the purview of these Regulations, except those relating to floor space index and fire precautions. Proviso to those Regulations clearly provides that various constructions including residential buildings specifically mentioned therein shall not be deemed to be operational for the purpose of exemption under the said Regulation. Regulation 5 of DCR, 1991 clearly provides that every person who intends to carry out a development or redevelopment, erect or re-erect a building or alter any building or part of a building shall give a notice in writing to the Commissioner of his said intention in the form in Appendix X and such notice shall be accompanied by plans and statements with sufficient number of copies, as required by sub-Regulations (2) and (3)

thereunder.

230. It is thus clear that no person shall erect or re-erect a building first obtaining development permission and commencement certificate from the Commissioner. In our view, the permission for carrying out construction of residential buildings is excluded from the purview of the said Regulation which are called operational constructions and are thus not exempted from making an application for development or seeking permission from the Commissioner or the authority. Sub-rule (2) of Regulation 4 provides that such exemption is by special permission of the Commissioner in each case and that also except those relating to floor space index and fire precautions. It is thus clear that the residential buildings shall not be entitled to exemption at all even if they are by the authorities specified by the said Regulation 4 of DCR, 1991. Thus, permission under Sections 43 and 44 shall be necessary for construction of residential buildings by every person, even by MHADA/ Municipal Corporation or any other local authority governed by the Regulations of DCR or the provisions of MRTP Act.

231. Section 58 of the MRTP Act makes a provision relating to development to be undertaken on behalf of the Government. When the Government intends to carry out development of any land for the purpose of any of its departments or offices or authorities, the officer-in-charge thereof has to inform in writing the Planning Authority the intention of Government to do so and give full particulars thereof, and accompanied by such documents and plans as may be prescribed at least thirty days before undertaking such development.

232. The planning authority is empowered to raise an objection to the proposed development on the ground that the development is not in

conformity with the provisions either of any Development plan under preparation, or of any building bye-laws in force for the time being, or for any other material consideration. The planning authority has power to approve the proposals made by the Government, with or without modifications or direct the officer to make such modifications in the proposals as it considers necessary in the circumstances.

233. Rule 14 of the Maharashtra Development Plan Rules, 1970 makes a provision for development to be undertaken on behalf of the Government to make a provision as to how an application for development to be undertaken on behalf of the Government is to be made including the documents and plans to be accompanied the intimation of intention of the Government to carry out development of any land for its purpose.

234. We are inclined to accept the submission of Mr. Walawalkar, learned senior counsel for the Municipal Corporation that even in the case of development to be made or undertaken on any land by the Municipal Corporation itself, it has its Building Proposal (Special Cell) department where the plans with other relevant particulars are to be submitted to the Municipal Corporation and the development is to be made after the plans are duly sanctioned. The purpose of such control over every development within the jurisdiction of the Municipal Corporation is to carry out planned development.

235. A perusal of the Sections 100 & 101 of the MHADA Act also clearly indicates that the said provisions emphasis the role of the Municipal Corporation as a Planning Authority and the Commissioner in the matter of construction/re-construction proposal undertaken by the MHADA under Chapter VIII of the MHADA Act. The said procedure

prescribed for giving notice and permission for building to be repaired or reconstructed by MHADA. Even the MHADA is required to obtain necessary permission from the planning authority in the prescribed manner. Such notice has to be accompanied by plans and other relevant documents and information. The Municipal Commissioner is empowered to raise an objection or suggestion which he may deem fit with reference to the proposed work to be undertaken by MHADA.

236. Insofar as the word "or" is used in Section 124 F i.e. "vested in" or "under the control" or "possession" of the Central or State Government or of any local authority is concerned, this Court will have to ascertain the meaning thereof from the context in which they are made. The State Government or Central Government or planning authority has no control at all over the land leased out by them to the petitioners-societies or any other body nor on the building built thereon. Learned senior counsel for the petitioners could not point out as to how the State Government or Central Government or the Planning Authority who owned any of these lands would have control over the buildings allowed to be constructed by these owners/developers /societies, as the case may be.

237. The physical possession of these properties also is with the lessees or tenants or the occupants who are allowed to occupy the buildings owned by the State Government or Central Government or the local authority or any planning authority. The ownership of the buildings to be constructed by the developers/societies would vest in the occupants therein or the societies and not in the owners of the lands.

238. It is the case of the petitioners that is lands which were either vested in or under the control or possession of the State Government

or any of the local authority which are allowed to be redeveloped, no application for seeking permission under Sections 43 and 44 of the MRTTP Act read with Rules was required to be made. Section 124 F has to be read with Section 124 A, 43, 44 and in the provision of DCR and Maharashtra Development Plan Rules. Even if the lands are on lease either by the Central Government or State Government or any public body in favour of the tenants or societies or any individuals on which permission is granted in favour of the developer/societies /individuals, such authorities or the Government does not become owner of the structures constructed thereon. Such developer or societies or individuals apply for permission for redevelopment under various beneficial schemes provided under the provisions of DCR, 1991 or DCPR, 2034 for gain.

239. In our view, learned counsel for the respondents authorities are right in their submission that the existing buildings owned by the State Government or Central Government or local authorities which are permitted to be demolished and new buildings are allowed to be redeveloped and the lands having been allowed to be redeveloped, new buildings would not vest in such authorities nor under their control. The buildings owned by the allottees are in possession and control of the allottees.

240. We shall now decide the issue as to whether any part of section 124 of the MRTTP Act is ambiguous and whether the benefit thereof shall be given to the petitioners or has to be construed in favour of the revenue. Learned counsel appearing for the parties have relied upon several judgments on this aspect which shall be dealt with by us in the later part of this judgment.

241. The Supreme Court in case of ***M/S Hyderabad Asbestos Cement Products & Anr.*** (supra) on interpretation of provisos (i) and (ii) to Rule 56-A of the Central Excise Rules, 1944 has held that they have to be read conjointly. The requirement of both the provisos has to be satisfied to avail the benefit. Clauses (a) and (b) of proviso (ii) are separated by the use of 'or' and there the availability of one of the two alternatives would suffice. It is held that the language of the rule is plain and simple and does not admit any doubt in terms of interpretation.

242. The Supreme Court considered the limited fact that the cement and asbestos fibre used by the appellants in the manufacturing of their finished excisable goods are liable to duty under different tariff items and the benefit of proforma credit extended by Rule 56A cannot be availed of by the appellants and has been rightly denied by the authorities of the Department. With these facts in hand, the Supreme Court held that the said provision does not admit of any doubt in terms of interpretation. In our view, the said judgment is clearly distinguishable with the facts.

243. It is arguments of the petitioners that the words 'vested in' or 'under the control' or 'possession' of the Central and State Government or of any local authority shall be read disjunctively is accepted, in that event even if the Central or State Government of any local authority is a licensee or tenant or in unauthorized occupation and if such land is required to be developed by the owner or the landlord or the appropriate authority shall be exempted from the payment of the development charges. In our view, the interpretation as sought to be canvassed by the petitioners that those words shall be disjunctively used is ex-facie contrary to the legislative intent and for objects and reasons for enacting Chapter VI-A of the MRTP Act.

244. Supreme Court in case of ***M/s.Achal Industries vs. State of Karnataka*** (supra) has adverted to the judgment in case of ***Commissioner of Customs (Import) Mumbai vs. Dilip Kumar and Company and Others*** (supra) and has interpreted the expression 'total turnover' for the purpose of identification/classification of dealers for prescribing various rates/slabs of tax leviable to the dealer and when read with provisos (i) and (ii) to Section 6-B(1), this makes the intention of the legislature clear and unambiguous that except the deductions provided under the proviso (i) to Section 6-B (1) nothing else can be deducted from the total turnover as defined under section 2(u-2) for the purpose of levy of turnover tax under Section 6-B of the Act.

245. The said judgment relied upon by the learned senior counsel for the petitioners would not advance the case of the petitioners and is distinguishable in the facts. The provisions considered by the Supreme Court in the said judgment were totally different. The Supreme Court in the said judgment had dismissed a civil appeal filed by the assessee.

246. Supreme Court in case of ***Orissa Warehousing Corporation*** (supra) has adverted to the judgment in case of ***Keshavji Ravji & Co. Etc. vs Commissioner Of Income Tax, 1990 SCC (2) 231*** in which it was held that as long as there is no ambiguity in the statutory language, resorting to any interpretative process to unfold the legislative intent becomes impermissible. The need for interpretation arises when the words used in the statute are, on their own terms, ambivalent and do not manifest the intention of the legislature. There is no dispute about the principles laid down by the Supreme Court in the said judgment. In our view, the said judgment however would not advance the case of the petitioners in this case in view of there being an ambiguity under section

124(F) of the MRTP Act. The Court has to find out the legislative intent of the Government who enacted and inserted the said Chapter 6A in the provisions of the MRTP Act. The arguments advanced by the learned senior counsel for the petitioners is *ex-facie*, contrary to the legislative intent of the State Government while enacting the said provisions.

247. The Supreme Court in case of ***District Magistrate, Haridwar and Another*** (supra) has held that as long as there is no statutory sanction for imposition of a tax, no liability of paying a fee can be imposed relying on the alleged consent or acquiescence to the same imposition in part. The development charges are payable in this case under section 124A of the MRTP Act by the parties seeking permission under sections 43 and 44 read with D.C.Regulations. The judgment of Supreme Court in case of ***District Magistrate, Haridwar and Another*** (supra) does not apply even remotely to the facts of this case.

248. The Supreme Court in case of ***Ahmedabad Urban Development Authority*** (supra) has held that in a fiscal matter, it will not be appropriate to hold that even in the absence of an express provision, a delegated authority can impose a tax or a fee. It is held that such power of imposition of tax and/or fee by a delegated authority must be very specific and there is no scope of implied authority for imposition of such a tax or fee. In this case, it is not the case of the petitioners that the demand of development charges made by the respondents is by exercising the delegated authority to recover such tax or to impose tax or fee. The said judgment in case of ***Ahmedabad Urban Development Authority*** (supra) thus would not advance the case of the petitioners.

249. This Court in case of ***Buildarch, Mumbai and Another*** (supra) has considered the issue as to whether the regulation 32(2) (C) of the

D.C.Regulations can empower the Commissioner to charge the premium for granting special permission to exclude from computation of FSI, areas set out therein or not, in addition to various other issues. The facts and provisions considered by this Court in the said judgment are totally different and thus are distinguishable on facts.

250. Insofar as the judgment of Supreme Court in case of ***Fruit and Vegetable Merchants Union, Subzi Mandi, Delhi*** (supra) relied upon by Dr.Sathe, learned senior counsel for the petitioners in Writ Petition No. 1334 of 2019 is concerned, Mr.Chinoy, learned senior counsel for the Municipal Corporation distinguished the said judgment. He invited our attention to paragraph (11) of the said judgment. He submitted that after construing the expression 'vesting' has been construed in the said judgment, it is held by the Supreme Court that the vesting of such property is only for the purpose of executing any improvement scheme which it has undertaken and not with a view to clothing it with a complete title. The term 'vesting' has a variety of meaning which has to be gathered from the context in which it has been used. It may mean full ownership, or only possession for a particular purpose, or clothing the authority with the power to deal with the property as the agent of another person or authority.

251. Learned senior counsel for the Corporation also invited our attention to the paragraph (14) of the said judgment and submitted that after interpreting the provisions, the Supreme Court in the facts of that case held that the provisions were made for the purpose of accounting between the different branches of the Trust activities. Particular reliance was placed upon the words "and such property shall thereupon vest in the Chief Commissioner." The Supreme Court held that the word "vest" has several meanings with reference to the context in which it is used.

He also relied upon the observations made by **Lord Cranworth in *Richardson v. Robertson (1862) 6 L.T. 75***, adverted to by the Supreme Court in the said judgment.

252. Learned senior counsel submitted that the word 'vest' is a word, at least of ambiguous import. *Prima facie* 'vesting' in possession is the more natural meaning. The, expressions 'investiture' 'clothing' and whatever else be the explanation as to the origin of the word, points *prima facie* rather to the enjoyment than to the obtaining of a right. Long usage 'vesting' ordinarily means having obtained an absolute and indefeasible right, as contra-distinguished from not having obtained it. It is held that it cannot be disputed that the word 'vesting' may mean, and often does mean, that which is its primary etymological signification, namely, vesting in possession.

253. Learned senior counsel submitted that the word "vest" is a word of variable import as shown by provisions of Indian statutes also. The legislative has made it clear that the vesting of the property is not for any limited purpose or limited duration. It would thus appear that the word 'vest' has not got a fixed connotation/meaning in all cases that the property is owned by the person or the authority in whom it vests. It may vest in title, or it may vest in possession, or it may vest in a limited sense, as indicated in the context in which it may have been used in a particular piece of legislation.

254. We are inclined to accept the submission made by Mr.Chinoy, learned senior counsel for the Corporation that the word 'vested in' or 'control' or 'possession' of the Central or State Government or of any local authority cannot be read disjunctively. The expression 'or' thus has to be read as 'and'. The judgment of Supreme Court in case of

Fruit and Vegetable Merchants Union, Subzi Mandi, Delhi (*supra*) relied upon by Dr.Sathe, learned senior counsel for the petitioners would assist the case of the Municipal Corporation and not the petitioners.

255. This Court thus will have to interpret the words 'vested in' or 'under control' or 'possession' of the Central or State Government or any of the local authorities who are exempted from the payment of development charges after considering the legislative intent and the objects and purpose of inactment of such provisions.

256. Insofar as the judgments of the Supreme Court in the case of ***Whirlpool Corporation (supra)*** and in the case of ***Radhakrishnan Industries (supra)*** relied upon by learned senior counsel for the petitioners in support of the submission that powers under Article 226 of the Constitution to issue writs can be exercised not only for the enforcement of fundamental rights, but for any other purpose as well are concerned, there is no dispute about the proposition of law laid down in the said judgments. The Supreme Court in the said judgments have held that an alternate remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution in an appropriate case, though ordinarily, a writ petition should not be entertained when an efficacious alternate remedy is provided by law. There is no dispute about the proposition of law laid down by the Supreme Court in the said two judgments.

257. The Supreme Court in the case of ***Shahed Kamal (supra)*** relied upon by Dr. Sathe, learned senior counsel for the petitioners in support of his submission that the word 'or' in Section 124F of the MRTP Act is disjunctive is concerned, the provision considered by this Court in the

said judgment is not in *pari materia* with Section 124F of the MRTP Act and, thus, would not be a precedent in the facts of this case.

258. The judgment of the Supreme Court in the case of **Commercial Tax Officer, West Bengal (supra)** relied upon by Dr. Sathe, learned counsel for the petitioners is also distinguishable to the facts of that case. The Supreme Court in the said judgment has construed Section 5 of the Bengal Finance (Sales Tax) Act, 1941. The said provision was totally different. The said judgment thus would not apply to the present case of the petitioners.

259. The Supreme Court in the case of **B. Premanand & Ors. (supra)** has held that the first and foremost principle of interpretation of statute in every system of interpretation is the literal rule of interpretation. The other rules of interpretation e.g. the mischief rule, purposive interpretation etc. can only be resorted to when the plain words of a statute are ambiguous or lead to no intelligible results or if read literally would nullify the very object of the statute. Where the words of a statute are absolutely clear and unambiguous, recourse cannot be had to the principles of interpretation other than the literal rule. In the said judgment, the Supreme Court adverted to its earlier judgment in the case of **Prakash Nath Khanna v. Commissioner of Income Tax** and held that the language employed in a statute is the determinative factor of the legislative intent. The legislature is presumed to have made no mistake. Assuming there is a defect or an omission in the words used by the legislature, the Court cannot correct or make up the deficiency. There is no dispute about the proposition of law laid down by the Supreme Court in the said judgment.

260. The question that arises for consideration of this Court is that if

there is ambiguity in Section 124F of the MRTP Act and the plain words of the said provision lead to no intelligible results or, if read liberally, would nullify the very object of the statute, the mischief rule or purposive interpretation is permissible. The judgment of the Supreme Court in the case of ***B. Premanand & Ors. (supra)*** would assist the case of the respondents and not the petitioners.

261. The Supreme Court in the case of ***Vodafone International Holdings (supra)*** held that the power to impose tax is essentially a legislative function which finds in its expression under Article 265 of the Constitution of India, which states that no tax shall be levied except by authority of law. The subject is not to be taxed without clear words for that purpose; and also that every Act of Parliament must be read according to the natural construction of its words. The proper course in construing revenue Acts is to give a fair and reasonable construction to their language without leaning to one side or the other but keeping in mind that no tax can be imposed without words clearly showing an intention to lay the burden and that equitable construction of the words is not permissible. There is no dispute about the proposition laid down by the Supreme Court in the said judgment.

262. In this case, the petitioners could not demonstrate as to how the levy of Development Charges under Section 124A of the MRTP Act is without authority of law. The argument of the petitioners is that the exemption, which is granted to the State Government or Central Government or any Planning Authority under Section 124F of the MRTP Act would also apply in case of the applications made by these petitioners for carrying out redevelopment of the land i.e. on institution of use or of change of use, or development of, any land or building vested in or under the control or possession of the Central or State

Government or of any local authority. The judgment of the Supreme Court in **Vodafone International Holdings (supra)** therefore, would not assist the case of the petitioners.

263. The Supreme Court in the case of **Gursahai Saigal (supra)** has held that the provisions in a taxing statute dealing with machinery for assessment have to be construed by the ordinary rules of construction, that is to say, in accordance with the clear intention of the legislature which is to make a charge levied effective. There is no dispute about the proposition of law laid down by the Supreme Court in the said judgment. The said principles would apply if there is no ambiguity in the provision, which is being construed by ordinary rules of construction.

264. This Court in the case of **Noshir Shapurji Dhabhar (supra)** has dealt with Sections 313 and 490 of the Mumbai Municipal Corporation Act and has held that charging of fees for parking is not covered by Section 313 read with Section 490 of the Mumbai Municipal Corporation Act. The object of Section 313 is to prohibit encroachment and obstruction by placing or depositing upon any street, etc. any stall, chair, bench, box, ladder, etc., without permission of the Municipal Commissioner. The provisions construed by this Court in the said judgment are totally different.

265. The question, which fell for consideration of this Court is, whether the petitioners who were carrying out redevelopment on the lands owned by the Municipal Corporation or the State Government or the Central Government or MHADA are also entitled to claim exemption from payment of Development Charges on the ground that the Central Government, State Government or any Planning Authority are entitled to seek exemption from payment of Development Charges, or not. The

said judgment in the case of **Noshir Shapurji Dhabhar (supra)** thus would not apply to the case of the petitioners.

266. The Supreme Court in the case of **Jalkal Vibhag Nagar Nigam (supra)** has considered the issue whether there is any distinction between the tax and fees on lands and building under Entry No.49 of List II or not. It is held that, the distinction that while a tax is a compulsory extraction, a fee constitutes a voluntary payment for services rendered does not hold good. The element of a service may not be totally absent in a given case in the context of a provision which imposes a tax. As in the case of a tax, so also in the case of a fee, the exaction may not be truly of a voluntary nature.

267. Similar view is taken by the Supreme Court in the case of **Tata Iron and Steel Co. (supra)**. In the said judgment, the Supreme Court adverted to a Nine-Judge Constitution Bench judgment in the case of **Jindal Stainless Ltd. v. State of Haryana reported in (2017) 12 SCC 1**, in which it was held that the expression 'fee' is also comprehended in the expression 'tax' for the purposes of Article 265 and even for the collection of 'fee', authority of law is mandatorily required under the Constitution. The case of the petitioners is that since the State Government or the Central Government or the Planning Authorities are exempted from payment of Development Charges under Section 124F of the MRPT Act, the petitioners, who are carrying out redevelopment on those lands under the authority granted by the Central Government or the State Government or the Planning Authority for carrying out redevelopment, are also entitled to get the benefit of such exemption.

268. The Division Bench of this Court in the case of **Solapur Promoters & Builders Association (supra)**, had construed the

challenge to the Constitutional validity of Chapter VI-A on the ground that what has been enacted by the legislature is a provision for the levy of a tax; a tax on development, which was outside the fold of competence of the State Legislature. This Court had construed Section 124A and 124J of the MRTP Act in the said judgment.

269. This Court in the said judgment held that the Development Charge leviable under Chapter VI-A is a fee that is imposed in order to enable the Authority to provide public amenities within its area and for the maintenance and improvement of the area under its jurisdiction. An institution of use, a change of use or the development of lands and buildings falling within the territorial limits of the jurisdiction of a Planning Authority or a Development Authority places demands on the civic amenities which the authority is required by law to provide. The contribution towards the Development Charge is therefore relatable to the amenities, which are provided by the Authorities of roads, parks, hospitals, water supply, electricity, sewerage and drainage amongst other public services prescribed under Section 2(2) of the MRTP Act provided by the Authority within the area of its jurisdiction. This Court accordingly held that the Development Charges is not a 'tax' but a 'fee'.

270. In our view, the said judgment of this Court in **Solapur Promoters & Builders Association (supra)** would assist the case of the respondent-Corporation and MHADA. The purpose and object of inserting Chapter VI-A in the MRTP Act was to recover Development Charges required to be spent for carrying out development activity, which a Planning Authority or Development Authority provides within the area under its jurisdiction and, which in turn, generates a need for resources to fund and maintain the amenities.

271. In our view, when the Central Government or the State Government or the Planning Authority, who propose to carry out development on the land owned by them for their own purpose, there is an exemption from payment of Development Charges, such exemption under section 124F of the MRTP Act cannot be claimed by a third party, who proposes to carry out redevelopment on the land in possession of or under control of or vested in the State Government or Central Government or Planning Authority. If the land owned by these Authorities is sought to be developed by such Authorities itself, for their own benefits and for their own purposes, such exemption permissible under Section 124F can be claimed by itself and not by others proposing to carry out redevelopment on such lands for their own benefits.

272. The Supreme Court in the case of **Jaypee Infratech Limited** (*supra*) relied upon by learned counsel for the respondents has held that an interpretation that defeats the scheme, intent and object of the statutory provision, is to be eschewed and for that matter, if necessary, by applying the principles of purposive interpretation rather than literal. The Supreme Court held that looking to the scheme and intent of the provisions in question and applying the principles aforesaid, the Court had no hesitation in accepting the submissions made on behalf of the appellants that the contents of provision under consideration call for purposive interpretation so as to ensure that the provision operates in sync with the intention of legislature and achieves the avowed objectives. The Supreme Court held that the expression “or”, appearing as disjunctive between the expressions “corporate debtor” and “transferee”, ought to be read as “and”; so as to be conjunctive of the two expressions i.e., “corporate debtor” and “transferee”. The principles laid down by the Supreme Court in the said case of **Jaypee Infratech**

Limited (supra) apply to this case. We are respectfully bound by the principles laid down by the Supreme Court in the said judgment.

273. In our view on applying the principles laid down by the Supreme Court to the facts of this case, and after considering the Statements of Objects and Reasons and the legislative intent to insert Chapter VI-A in the MRTTP Act, the object for granting such exemption to the State Government or the Central Government or any Planning Authority, who owned the land and propose to carry out the development or redevelopment, as the case may be, for its own purpose, cannot be construed to mean that the Developers, who are third parties and propose to carry out the redevelopment with commercial bargain, can also be allowed to claim exemption.

274. The benefits of exemption are made exclusively for the State Government or the Central Government or the Planning Authorities, who seek to carry out development itself or through a contractor for their own purposes and not for their tenants, who would get permanent alternate accommodation on ownership basis. This Court, thus, is of the opinion that in view of there being an ambiguity in Section 124F of the MRTTP Act, Section 124F calls for purposive interpretation, so as to ensure that the provision operates in sync with the intention of legislature and achieves the avowed objectives and to avoid any absurd result.

275. In our view, there is no legislative intent while enacting the said Chapter VI-A that a Developer or any third party, who seeks to carry out redevelopment on the plot of land owned by any public body or the Government for their personal gain should also be allowed to claim exemption merely because the land belongs to Government or the

Public Authority.

276. The Supreme Court in the case of **Yum! Restaurants (Marketing) Private Limited (supra)**, has while construing a section of Income Tax Act, held that for grant of exemption from the taxing power of the State will never be implied from language which would admit of any other reasonable construction. Such an intention must be expressed in clear and unmistakable terms, or must appear by necessary implication from the language used. Exemptions are never presumed, the burden is on a claimant to establish clearly his right to exemption, and an alleged grant of exemption would be strictly construed and cannot be made out by inference or implication, but must be beyond reasonable doubt. If an exemption is found to exist, it must not be enlarged by construction.

277. In our view, the onus is on the petitioners, who claim exemption of payment of Development Charges for carrying out redevelopment on the land of State Government or Central Government or Planning Authorities like MHADA or BMC in this case, to prove that they are entitled to claim exemption of payment of Development Charges. Such exemption cannot be granted on the basis of an inference sought to be drawn from the provision granting exemption. The provision granting exemption has to be construed strictly and not by reading between the lines. If the claim of the petitioners for exemption from payment of Development Charges is accepted, it would clearly defeat the purpose, object and legislative intent of the State Government, empowering the Planning Authority to collect Development Charges from the persons seeking permission to develop the lands. The principles laid down by the Supreme Court in the case of **Yum! Restaurants (Marketing) Pvt. Limited (supra)** are clearly applicable to the facts of this case. We are

respectfully bound by this judgment.

278. The Supreme Court in the case of **Vile Parle Kelvani Mandal (supra)** has held that in every taxing statute – the charging, the computation and exemption provisions at the threshold stage should be interpreted strictly. In case of ambiguity in case of charging provision, the benefit necessarily must go in favour of the subject/assessee. This means that the subject of tax, the person liable to pay tax and the rate at which the tax is to be levied have to be interpreted and construed strictly. If there is any ambiguity in any of these three components, no tax can be levied till the ambiguity or defect was removed by the legislature. However, in case of exemption notification or clause, same is to be allowed based wholly by the language of the notification, and exemption cannot be gathered by necessary implication, or on a construction different from the words used by reference to the object and purpose of granting exemption.

279. It is held that it is for the assessee to show by construction of the exemption clause/notification, that it comes within the purview of exemption. The assessee/citizen cannot rely on ambiguity or doubt to claim benefit of exemption. The rationale is not to widen the ambit at the stage of applicability. However, once the hurdle is crossed, the notification is constructed liberally. The Supreme Court held that the statutory conditions for grant of exemption can neither be tinkered with nor diluted. The exemption notification must be interpreted by their own wordings, and where the wordings of notification with regard to the construction is clear, the said notification has to be given effect to.

280. It is held that if on the wordings of the notification, benefit is not available, then the Court would not grant benefit by stretching the words

of the notification or by adding words to the notification. The purposive interpretation can be given only when there is some ambiguity in the language of the statutory provision or it leads to absurd results. The principles laid down by the Supreme Court in the case of **Vile Parle Kelvani Mandal (supra)** would apply to the facts of this case. If we accept the claim of the petitioner-Developers and the Society for exemption of the Development Charges, which exemption is only applicable to the State Government or the Central Government or any Planning Authority, who develop its own land, it will lead to absurd results, which cannot be permitted in law.

281. The Supreme Court in the case of **Municipal Commissioner if Dum Dum Municipality (supra)** has construed the expressions "vest" and "vesting" and has held that these expression have different shades of meaning as pointed out by the Supreme Court in **Fruit and Vegetable Merchants Union (supra)**. The Supreme Court in the case of **Prof. Yashpal (supra)** has held that the word 'or' is normally disjunctive and the word 'and' is normally conjunctive, but at times they are read vice-versa to give effect to the manifest intentions of the legislature, as disclosed from the context. If literal reading of the word produces an unintelligible or absurd result 'and' may be read for 'or' and 'or' may be read for 'and'.

282. In our view, learned Advocate General for the State and MHADA, Mr. Chinoy, Mr. Walavalkar and Mr. Reis, learned senior counsel for Municipal Corporation are right in their submission that the word 'or' between the words 'vested in', 'under control of' and 'in possession of' the Central Government or the State Government or the Local Authority, has to be read as 'and' to achieve the legislative intent, purpose and object of enacting Chapter VI-A of the MRTP Act.

283. The Supreme Court in the case of **Municipal Corporation of Hyderabad (supra)**, has held that the buildings and lands vesting unto the Corporation not only in title, but also in possession were exempted from the obligation imposed by the legislature to levy the property taxes. The buildings and lands, which were merely owned by the Corporation, but were in actual possession or under the actual use and occupation of someone else, that is to say, persons or bodies other than the Corporation itself, are not exempted. It is held that, in order to attract Section 202(1)(c) of the Act under consideration, it must be established that the property must satisfy a dual test. The property must not only be owned by the Corporation, but it must also be in occupation of the Corporation itself. It is in this sense that the word 'vesting' has been used. The Supreme Court reiterated the principles laid down by it in the case of **Fruit & Vegetable Merchants Union (supra)**. The principles laid down by the Supreme Court in the case of **Municipal Corporation of Hyderabad** apply to the facts of this case. We are respectfully bound by the said principles. For availing of exemption under Section 124F of the MRTP Act, all the three ingredients i.e. 'vested in', 'under the control' and 'possession'.

284. A Division Bench of this Court in the case of **Real Gem Buildtech Pvt. Ltd. (supra)** has considered the petition seeking a declaration that the imposition of Development Charges under Section 124A of the MRTP Act in respect of additional FSI availed under Regulation 33(24) and fungible FSI under Regulation 35(4) of the DCR on the said property was illegal and ultra vires of the said Act and the Constitution of India. This Court, after considering the Statement of Objects and Reasons of the amendment, by which Section 124A was brought into the statute book, held that the legislature found that plans and schemes

undertaken by the Planning Authorities are capital intensive and that it has not been possible for these Authorities to achieve the desired results, mainly because of lack of funds for effective implementation of such development plans or town planning schemes.

285. It is held that it had become imperative to mobilise additional resources for being placed at the disposal of Planning or Special Planning or the Development Authority constituted under the MRTTP Act for effective implementation of the provisions of the said Act and to provide proper amenities and facilities for the healthy growth of these cities and towns. It is held that levy under Section 124A is mandatorily to be levied by the Planning Authority on any development carried out in the area of its jurisdiction for which permission is required under the said Act. The principles laid down by this Court in the said judgment in the case of ***Real Gem Buidtech Pvt. Ltd. (supra)*** apply to the facts of this case. We are respectfully bound by the said judgment. We do not propose to take a different view in the matter.

286. The Supreme Court in the case of ***Hira Singh & Anr. V. Union of India & Anr. reported in (2020) 20 SCC 272***, has held that the burden of proof to establish entitlement of exemption from payment of tax lies upon the person claiming exemption. The Supreme Court after adverting to the judgment in the case of ***Dilip Kumar & Co. (supra)*** and several other judgments has held that to winch up the legislative intent, it is permissible for the Courts to take into account the ostensible purpose and object and the real legislative intent. Otherwise, a bare mechanical interpretation of the words and application of the legislative intent devoid of concept of purpose and object will render the legislature inane.

287. It is held that in given circumstances, it is permissible for the Courts to have functional approaches and look into the legislative intention and sometimes it may be even necessary to go behind the words and enactment and take other factors into consideration to give effect to the legislative intention and to the purpose and spirit of the enactment so that no absurdity or practical inconvenience may result and the legislative exercise and its scope and object may not become futile. The principles laid down by the Supreme Court in the said judgment apply to the facts of this case. We are respectfully bound by the said judgment.

288. The Supreme Court in the case of **Kotak Mahindra Bank Limited v. Kew Precision Parts Private Limited & Ors. reported in 2022 SCC Online SC 978**, while construing the provisions of the Insolvency and Bankruptcy Code, 2016, has held that the legislature has in its wisdom chosen not to make the provisions of the Limitation Act verbatim applicable to proceedings in NCLT/NCLAT, but consciously used the words 'as far as may be'. The words 'as far as may be' are not meant to be otiose. Those words are to be understood in the sense in which they best harmonise with the subject matter of the legislation and the object which the legislature has in view. The Courts would not give an interpretation to those words which would frustrate the purposes of making the Limitation Act applicable to proceedings in the NCLT/NCLAT 'as far as may be'.

289. The Supreme Court held that the use of words 'as far as may be', occurring in Section 238A of the IB Code tones down the rigour of the words 'shall' in the said section, which is normally considered as mandatory. The expression 'as far as may be' is indicative of the fact that all or any of the provisions of the Limitation Act may not apply to the

proceedings before the Adjudicating Authority (NCLT) or the Appellate authority (NCLAT), if they are patently inconsistent with some provisions of the IB Code. At the same time, the words 'as far as may be' cannot be construed as a total exclusion of the requirements of the basic principles of Section 14 of the Limitation Act, but permits a wider, more liberal, contextual and purposive interpretation by necessary modification, which is in harmony with the principles of the said Section. The principles laid down by the Supreme Court in the said case would apply to the facts of this case.

290. We are inclined to accept the submission made by learned counsel for the respondents that purposive interpretation is warranted to the provisions of Section 124F of the MRTP Act. The benefit of ambiguity in all taxing provisions has to be given to the assessee in case of charging provision, whereas in case of exemption, the benefit of ambiguity goes to the revenue. A perusal of the provisions of Chapter VI-A indicates that under the said provision, a fee is imposed to provide public amenities within its area and for the maintenance and improvement of the area under its jurisdiction and the same is in aid of the regulatory powers. The Development Charge allows the Authority to generate a need for resources to fund and maintain the amenities. In our view, Section 124F has to be read *ejusdem generis* with remaining part of Section 124F, vesting, control, possession as well as, in view of the fact that the exemption is only granted for the development undertaken by the Central or the State Government or Local Authorities and not by private parties. Otherwise, it would fail the test of intelligible differentia having a nexus to the object sought to be achieved.

291. We have perused the Development Agreement brought on record in some of the matters, which made it clear that the development of land

is undertaken by the petitioners independently of any Local Authority and on its own accord on the property of the Authority. The petitioners are not appointed by the respondents as contractors and developers. The petitioners, therefore, cannot be allowed to contend that the development or redevelopment is on behalf of or for the exempted category. In our view, since the development is by a private party and not by or on behalf of the Authority, the exemption for Development Charges is not applicable. It cannot be held that the property vests in public authority only because they have title to it, when control and possession is not with the Authority.

292. So far as the judgment of the Supreme Court in the case of **Shamrao Vithal Co-operative Bank Limited (supra)** relied upon by Mr. Samdani, learned senior counsel for the petitioner in Writ Petition (L) No.704 of 2022 is concerned, the Supreme Court has held that the word 'control' is synonymous to superintendence, management, to restrain, to check, to regulate and to govern. The control is exercised by superior authority in exercise of supervisory power. In our view, the reliance placed by learned senior counsel on the said judgment is misplaced. The Supreme Court has considered the issue whether under the Administrative Law, exercise of control is different from adjudication of dispute, which is a judicial or quasi judicial function.

293. Similarly, the Supreme Court in the case of **Regional Provident Fund Commissioner (supra)**, relied upon by Mr. Samdani, learned senior counsel has held that the State Government has the power of superintendence, authority to direct, restrict or regulate the working of the educational institutions. In that context, the Supreme Court interpreted the word 'control'. It is not the case of the petitioners that the redevelopment undertaken by the petitioners is under control of the

State Government or the Central Government or the Municipal Corporation or MHADA. The said judgment also would not advance the case of the petitioners.

294. The Supreme Court in the case of **Corporation of City of Nagpur, Civil Lanes (supra)** has held that the term 'control' is of very wide connotation and amplitude and includes a large variety of powers, which are incidental or consequential to achieve the powers vested in the authority concerned. The Supreme Court has considered the powers of Municipal Commissioner to suspend the employee pending the departmental inquiry. The facts before the Supreme Court in the said case, were totally different and that the said judgment is distinguishable on facts.

295. The Supreme Court in the case of **Collector of Central Excise, Bombay I (supra)**, has held that when two views of a notification are possible, it should be construed in favour of the subject as notification is part of a fiscal enactment. In this case, it is not the case of the petitioners that there is any ambiguity in Section 124A, which is a charging section for recovery of Development Charges. The said judgment of the Supreme Court in the case of Collector of Central Excise, Bombay would not apply to the case of the petitioners.

296. The Supreme Court in the case of **Wood Papers Limited (supra)**, relied upon by Mr. Samdani, learned senior counsel for the petitioners has held that once exception or exemption becomes applicable, no rule or principle requires it to be construed strictly. Truly, speaking liberal and strict construction of an exemption provision is to be invoked at different stages of interpreting it. It is also held in the said judgment that when the question is, whether a subject falls in the

notification or in the exemption clause then it being in nature of exception is to be construed strictly and against the subject but once ambiguity or doubt about applicability is lifted and the subject fails in the notification, then full play should be given to it and it calls for a wider and liberal construction.

297. The Supreme Court in the case of **Gujarat Industrial Development Corporation (supra)**, relied upon by Mr. Samdani, learned senior counsel for the petitioners has held that when the object is such that an interpretation which would preserve it should be accepted, even if the provision is capable of more than one interpretation. That principle of interpretation is very much applicable to fiscal statutes also. In our view, this judgment would assist the case of the respondents and not the case of the petitioners. The legislative intent, object and purpose of the enactment of Section 124F for granting exemption from payment of Development Charges to the Authorities has to be resolved and cannot be tinkered with by extending such exemption to a third party.

298. In our view, there is no substance in the submission of Dr. Sathe, learned senior counsel for the petitioners that levy of Development Charges on the subject property defeats the mandate of Section 124A or the same is without authority of law. Merely because the LOI has been granted by the Municipal Corporation as Planning Authority in favour of the petitioners for redevelopment, it would not fall within the parameters of exempted entitlement under Section 124F of the Mumbai Municipal Corporation Act. In a given case, the Planning Authority may be an owner of the land in question and some time, the Planning Authority under the provisions of the MRTP Act, being under two heads.

299. Dr. Sathe, learned senior counsel appearing for the petitioners in Writ Petition No.1334 of 2019 does not dispute that even in the LOI issued by the Municipal Corporation, it was clearly provided that the Development Charges, if any, would be payable by the petitioners. The petitioners had been paying the Development Charges in the past.

300. In our view, there is no substance in the submission of learned senior counsel for the petitioners that the Municipal Corporation has added any words into Section 124F of the MRTP Act. Respondent No.2-Corporation only intends construing the words 'vested in' as enjoyment or use. The term 'control' or 'possession' does not make any reference to title nor relation to ownership. The said provision does not contemplate the development done by others.

301. Insofar as the additional submissions of Mr. Vashi, learned senior counsel for the petitioners in Writ Petition No.8126 of 2022 are concerned, it is not in dispute that MHADA has become Planning Authority with effect from 23/07/2021 in respect of the land, which is the subject matter of the said writ petition. Respondent No.1-MHADA had granted land on lease to the petitioner-Society. Various chawls/structures were thereafter constructed. Admittedly, in that case, MHADA did not make any application for redevelopment. In that matter also, MHADA has acted in dual capacity i.e. one as owner and another as Planning Authority. Learned senior counsel for the petitioners could not demonstrate that all the three conditions prescribed under section 124F of the MRTP Act were satisfied by the petitioners for availing the exemption.

302. Insofar as the additional submissions of Mr. Samdani, learned senior counsel for the petitioners is concerned, based on Clause 2 of

the Indenture of Lease dated 19/07/2010 entered into between MHADA and respondent No.4-Society that there is control of MHADA over the property, is totally untenable. In our view, even if the said land of MHADA is redeveloped by the petitioners or respondent No.4-Society, there is no transfer of land or any part thereof in favour of the petitioners or respondent No.4-Society. MHADA has not raised any objection to the redevelopment being carried out by the petitioners or respondent No.4.

303. In our view, there is no substance in the submission of Mr. Samdani, learned senior counsel for the petitioners that under the said Lease Deed, there is a control of MHADA on the said land, in view of the fact that prior permission of MHADA is required for use of FSI and for various other purposes. Merely because MHADA has allowed the development and has levied Rs.14.26 crores approximately for permission to use FSI would not advance the case of the petitioners that exemption from payment of Development Charges available to MHADA can also be automatically available to the petitioners. The Dictionary meaning of 'control' defined in various Dictionaries relied upon by learned senior counsel is misplaced. The petitioners are claiming exemption through the respondents.

304. Insofar as the additional submissions made by Mr. Godbole, learned counsel for the petitioners in Writ Petition No.9673 of 2022 is concerned, we have already dealt with the issue whether the word 'or' in Section 124F of the MRTP Act is disjunctive or not. The definitions of the words 'owner' and 'occupier' under the provisions of Maharashtra Rent Control Act, by learned counsel for the petitioners is misplaced.

305. We have already dealt with in the earlier paragraphs about the

powers of the State Government to grant partial exemption from payment of Development Charges for the development being carried out by the specific Authorities for specific purpose. The said provision would also clearly indicate that the said provision does not provide that even if the development or redevelopment is sought to be carried out by the third party on the land owned by the Governments or Local Authority, exemption from payment of Development Charges granted to the Governments or Local Authority would be availed of by the third parties or they would be entitled to such exemption from payment of Development Charges.

306. There is no substance in the submission of Mr. Godbole, learned counsel for the petitioners that the respondents have failed to consider the relevant provisions of the MRTP Act, whilst issuing the impugned demand notice dated 21/03/2022. Learned counsel for the petitioners could not convince this Court as to how the imposed Development Charges are without authority of law or de hors the statute.

307. Insofar as the additional submission of Mr. Kadam in Writ Petition No.2193 of 2022 is concerned, it is an admitted position that the Municipal Corporation is the owner / lessor in respect of the writ land, which was granted on lease in the year 1937 for 99 years and which is to be renewed on 11/08/2048. The petitioners in the case at hand had submitted a proposal under Regulation 33(7) of the DCPR 2034.

308. So far as the submission of learned counsel that the Development Charges cannot be imposed in respect of redevelopment of leasehold land is concerned, in our view, this submission is totally untenable. There is no such distinction made in Section 124A of the MRTP Act that leasehold plot cannot be developed or that no

Development Charges would be required to be paid for carrying out development or redevelopment by a third party on leasehold plot. The lease in this case was admittedly for 99 years in the year 1937 and has to be renewed again on 11/08/2048.

309. In our view, there is no substance in the submissions made by Mr. Kadam, learned counsel for the petitioners that the definition of the word 'development' under Section 2(7) of the MRTP Act, then prevailing in the year 1992, did not include the words 'demolition of the structures and erection of new building' and thus it was clear intention of the legislature, not to bring 'demolition of the structure and erection of new building' within the ambit of Section 124A of the MRTP Act. If the building is required to be redeveloped, it cannot be done unless the existing structures are demolished. The argument advanced by learned counsel for the petitioners is contrary to Section 124A of the MRTP Act. The definition of expression 'development' includes redevelopment'.

310. Though some of the petitioners have challenged the levy under other heads, we have not dealt with the challenge to the levies under other heads, except Development Charges. The petitioners would be at liberty to make additional submissions in respect of other levies, if challenged in any of these petitions, separately by filing appropriate applications.

311. In our view, there is no merit in any of these petitions. We accordingly pass the following order:

: ORDER :

- (a) Writ petitions are dismissed.

- (b) Rule is discharged.
- (c) In view of dismissal of the above writ petitions, interim applications pending, if any, are also dismissed.
- (d) *Ad-interim* relief granted by this Court to continue for a period of four weeks from today.
- (e) No order as to costs.
- (f) Parties to act on the authenticated copy of this order.

(KAMAL KHATA, J.)

(R.D. DHANUKA, J.)