



August 2025

Bombay High Court directs constitution of a high-level committee to probe into statutory abuse by Maharashtra Housing and Area Development Authority in redevelopment matters

In a batch of writ petitions, a Division Bench of the Hon'ble Bombay High Court ("**Bombay HC**") in *Javed Abdul Rahim vs. Maharashtra Housing Development Authority*,¹ was called upon to examine the legality of several notices issued under Section 79A of the Maharashtra Housing and Area Development Act, 1976 ("**MHADA Act**") by Executive Engineers of MHADA. The Bombay HC took a stern view of the actions of MHADA, emphasising that the notices were issued without satisfying mandatory legal pre-requisites, such as formal declaration of danger under the Mumbai Municipal Corporation Act, 1949 ("**MMC Act**") or the MHADA Act. The Bombay HC found that issuing such notices based merely on visual inspections, without structural audits or declarations by a competent authority, constituted grave administrative overreach and abuse of statutory powers. Consequently, the Bombay HC directed that all such notices will be kept in abeyance pending examination by a high-level committee constituted pursuant to the Bombay HC's directions.

Brief facts

MHADA had issued several notices under Section 79A of the MHADA Act for redevelopment of cessed buildings allegedly deemed dangerous by the executive engineers of MHADA. Before the Bombay HC, the petitioners contended that these notices were issued without proper legal authority, bypassing mandatory structural audits and statutory procedures.

Analysis and findings

1. **Jurisdictional overreach:** The Bombay HC meticulously analysed the statutory framework under the MHADA Act and held that Section 79A of the MHADA Act can only be invoked if a building is declared dangerous by:
 - a) the Municipal Corporation under Section 354 of the MMC Act; or
 - b) a Competent Authority appointed under Section 65 of the MHADA Act.
2. In the present case, the Executive Engineers had issued notices without either of these legal prerequisites being fulfilled. The Bombay HC found this to be a clear case of jurisdictional overreach, rendering the notices ultra vires and legally untenable.

¹ Writ Petition (L) No. 34771 of 2024.

3. **Visual inspection not sufficient:** The Bombay HC further noted that the impugned notices were issued based solely on visual inspections conducted by MHADA officials, without any structural audits or formal declarations of danger. This practice was deemed a blatant misuse of power, lacking scientific basis and violating the procedural safeguards embedded in the statute.
4. **Improper use of Standard Operating Procedure (“SOP”):** To justify the issuance of these notices, MHADA’s Vice-Chairman had issued a SOP in December 2024. The Bombay HC held this SOP to be unauthorised, contrary to the MHADA Act, and legally invalid. It attempted to retroactively legitimise actions that were already in breach of statutory provisions prescribed under the MHADA Act, thereby undermining the rule of law.
5. **Potential redevelopment scam:** The Bombay HC observed a disturbing pattern in the issuance of notices, many being targeted at properties in prime Mumbai locations, suggesting a possible redevelopment scam. The scale and uniformity of the notices indicated that vested interests may have exploited the statutory machinery for commercial gain, bypassing legal checks and balances.
6. **Violation of constitutional rights:** The misuse of statutory powers by MHADA officials led to serious violations of constitutional rights, including Article 300A (Right to Property), Article 14 (Equality before Law) and Article 21 (Right to Life and Personal Liberty).

The Bombay HC emphasised that such actions erode public trust in governance and judicial processes and must be addressed with urgency and accountability.

Bombay HC directions

In response to the gravity of the situation, the Bombay HC *inter alia* issued a series of remedial directions,:

1. a High-Level Committee (“**Committee**”) to be constituted, comprising Justice J.P. Devadhar (Retd.) and Shri Vilas D. Dongre (Retd. Principal District Judge), to review all the 935 (nine hundred and thirty-five) notices, the conduct/role of the MHADA officials during issuance of the notices and the proper basis, intention and authority behind the issuance of SOP by the MHADA Vice Chairman;
2. MHADA submitted that the 46 (forty-six) notices issued after the *Vimalnath Shelters*² judgment (delivered on April 3, 2025) would be withdrawn by MHADA;
3. the remaining 889 (eight hundred and eighty-nine) notices issued prior to the *Vimalnath Shelters* judgment (delivered on April 3, 2025) were ordered to be kept in abeyance and no further action will be taken under them, unless the parties have consented in the redevelopment and the redevelopment has progressed;
4. however, all the 935 (nine hundred and thirty-five) notices will form the subject matter of consideration of the Committee. The Committee will hear all the stakeholders in relation to the said notice and examine the issues underscored by the Bombay HC and submit its report within 6 (six) months from the date of the order;
5. MHADA was instructed to provide full cooperation and access to records to the Committee; and
6. MHADA’s request to stay the operation of the Bombay HC’s order was categorically rejected. The Bombay HC underscored the seriousness of the violations, the scale of illegality, and the potential systemic abuse of power. It reiterated the need to uphold the rule of law and protect citizens from arbitrary administrative actions.

Conclusion

The judgment delivered by the Bombay HC affirms that statutory powers vested under Section 79-A of the MHADA Act must be exercised strictly in accordance with the law, with due observance of procedural requirements and proper authorisation. The Bombay HC’s intervention highlights the risks posed by the arbitrary issuance of notices based solely on visual inspections, emphasising the critical need for comprehensive structural audits and procedural

² *Vimalnath Shelters Private Limited v. State of Maharashtra, through Ministry of Housing Mantralaya*, 2025 SCC OnLine Bom 1109

safeguards. These measures are essential to prevent the misuse of authority, protect against exploitation, and guard against manipulations driven by vested interests.

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This Prism is prepared by:



Varghese Thomas
Partner



Fatema Kachwalla
Partner



Dishay Chitalia
Associate



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