

Bombay High Court Uncovers Widespread Abuse of Power by MHADA Officials in Redevelopment Notices

In a landmark ruling that exposes systemic misuse of authority within the Maharashtra Housing and Area Development Authority (MHADA), the Bombay High Court has quashed hundreds of notices issued under Section 79-A of the Maharashtra Housing and Area Development Act, 1976 (MHAD Act). The judgment, delivered on July 28, 2025, by Justices G.S. Kulkarni and Arif S. Doctor, highlights a "colossal abuse of powers" by MHADA's Executive Engineers, describing the situation as akin to a "racket or scam" aimed at facilitating unauthorized redevelopment for vested interests. The court has appointed a high-level inquiry committee to probe the matter, signaling a strong stance against bureaucratic overreach and potential corruption in Mumbai's real estate sector.

Background of the Case

The petitions, including the lead case of Abdul Rahim Attar & Ors. vs. Maharashtra Housing and Area Development Authority & Ors. (Writ Petition No. 3477 of 2024), challenged notices issued under Section 79-A of the MHAD Act. This provision, introduced in 2021, allows for the redevelopment of "dangerous" cessed buildings in Mumbai—structures built before 1940 and subject to cess for repairs. However, the section mandates that a building must first be declared dangerous either by the Municipal Corporation of Greater Mumbai (MCGM) under Section 354 of the Mumbai Municipal Corporation Act or by a Competent Authority appointed under Section 65 of the MHAD Act.

Petitioners argued that MHADA's Executive Engineers issued these notices arbitrarily, based solely on "visual inspections" or "pre-monsoon surveys," without fulfilling these jurisdictional prerequisites. This bypassed the legal safeguards and enabled redevelopment proposals that could grant lucrative incentives like additional Floor Space Index (FSI) under the Development Control and Promotion Regulations (DCPR) 2034. Such incentives often benefit developers, landlords, or tenants at the expense of other stakeholders, turning prime Mumbai properties into high-value redevelopment projects.

The court noted that 935 such notices were issued across Mumbai, many targeting properties in high-value areas. Shockingly, individual Executive Engineers issued hundreds of notices in short spans, often without structural audits or evidence of danger. In some cases, notices were issued and withdrawn abruptly, raising suspicions of ulterior motives.

Court's Scathing Observations on Abuse of Power

The bench described the actions as "high-handed," "arbitrary," and a "blatant abuse of powers," violating constitutional rights under Articles 14, 21, and 300A. It emphasized that determining a building's "dangerous" status cannot be the "ipse dixit" (mere assertion) of MHADA officials. Relying on prior rulings like Pramod Vishwanath Saraf & Ors. vs. The State of Maharashtra & Ors. (2025) and Vimalnath Shelters Pvt. Ltd. vs. The State of Maharashtra & Ors. (2023), the court reiterated that Section 79-A can only be invoked after formal declarations of danger, not through ad-hoc inspections.

The judgment criticized MHADA's Standard Operating Procedure (SOP) dated December 5, 2024, issued by the Vice-Chairman, as ultra vires the MHAD Act. The SOP purportedly allowed Executive Engineers to declare buildings dangerous and issue notices, creating a "parallel machinery" that contradicted the statute. The court questioned the SOP's timing—issued after over 800 notices were already sent—and its intent, suggesting it might be an attempt to retroactively legitimize illegal actions.

Further, the bench highlighted the "horrendous consequences" of these notices: they confer "veto powers" in redevelopment disputes, often benefiting developers through cluster redevelopment schemes. The court observed that such misuse fosters "lawlessness," eroding public faith in the rule of law and allowing "sinister motives" to exploit Mumbai's aging cessed buildings for commercial gain.

MHADA's defense, presented through affidavits and counsel, failed to convince the court. While admitting that 46 notices post the Vimalnath judgment would be withdrawn, MHADA sought to keep 889 earlier notices in abeyance pending a potential appeal. The bench rejected this, noting the identical illegality in all notices.

Key Actions Ordered by the Court

To address the "serious proportions" of the issue, the court took decisive steps:

1. **Inquiry Committee:** A committee headed by retired Bombay High Court Judge Justice J.P. Devadhar, along with retired Principal District Judge Vilas D. Dongre, was appointed to investigate all 935 notices. The probe will examine the officials' roles, motives, withdrawal decisions, and the SOP's validity. MHADA must provide full records, and the committee will hear stakeholders, submitting a report within six months.
2. **Withdrawal and Stay:** MHADA must withdraw the 46 post-Vimalnath notices within one week and intimate affected parties. The remaining 889 notices are to be kept in abeyance, with no further action unless redevelopment has progressed with consent. Impugned notices in the petitions are stayed.
3. **Administrative Support:** MHADA's Vice-Chairman must provide venue and secretarial assistance for the committee.

The court rejected MHADA's plea to stay the order, underscoring the urgency of protecting citizens' rights.

Broader Implications

This judgment is a significant blow to unchecked bureaucratic power in Mumbai's redevelopment landscape, where cessed buildings—numbering over 16,000—represent a multi-billion-rupee market. It reinforces that public officials must act within statutory bounds, preventing misuse for private gains. Property owners and tenants, often caught in redevelopment tussles, gain stronger protections against arbitrary evictions or forced schemes.

Legal experts view this as a deterrent against similar abuses in other urban development authorities. The inquiry could uncover deeper corruption, potentially leading to disciplinary actions or criminal probes. For MHADA, it mandates stricter adherence to the MHAD Act's scheme under Chapter VIII, focusing on genuine repairs rather than expedited redevelopments.

As Mumbai grapples with aging infrastructure, the ruling emphasizes balanced urban renewal: redevelopment must prioritize safety and legality, not commercial expediency. The matter is listed for further hearing on August 12, 2025, where broader constitutional challenges may be addressed.

This case serves as a reminder that the rule of law is paramount, even in the high-stakes world of real estate.