

In Diwali bonanza, 19 elderly get keys to redeveloped flats after 7 yrs in HC

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Mumbai: Their eyes glittered, their smiles lit up the courtroom. Diwali wishes were exchanged and festival cheer infected Bombay high court on Thursday as 19 original tenants of a Goregaon (west) housing colony were given the keys to their redeveloped ownership flats in the court by the developer seven years after they had vacated their houses.

It was an overwhelming experience for those present in the courtroom presided over by a vacation bench of Justices Shahrukh Kathawalla and Surendra Tavade as the recipients were mostly senior citizens, including an 88-year-old, leaning on their walking sticks and had to be helped in. One of the recipients was disabled. As Justice Kathawalla called out their names, they came forward, took the keys to their apartments in the 27-storey Earth Terrace and bowed with joined hands.

The court had heard a petition by 19 out of 120 tenants of the erstwhile Gajanan Colony, which comprised four buildings, at Eksar Pahadi. They had vacated their homes in 2014, and though the redeveloped building was ready and occupation certificate had been granted in February 2021, the landlord/developer Earth Graphics did not hand over possession. He made "illegal" demands such as charges for chajja/overhanging eave and a 99-year lease. Of all the tenants, only these few arranged for funds and moved the HC. On November 3, to "put an end to the long-standing dispute", the judges insisted that the developer hand the keys to



BEST GIFT EVER: The happy group, who got keys to flats in Goregaon's 27-storey Earth Terrace, brought festive cheer to the high court with their smiles and small celebration with kachoris and chocolates

them in their presence.

The tenants' advocates Amogh Singh and Bhavin Bhatia said the developer now wants an undertaking that they will not sell their ownership flats for 10 years. The judges questioned the develo-

per." The judges said the original tenants and their legal heirs shall abide by conditions in the agreement.

Advocate Singh said there are over 100 tenants and relief is granted to the ones who were able to approach HC. "They

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per's son whether it was part of the permanent alternative accommodation agreement. He replied it was decided later. The developer's advocate Shanay Shah said: "They (tenants) must take liability of the society whenever we hand ov-

will actually have a very happy Diwali," he added. "Happy Diwali," a smiling Justice Kathawalla wished the tenants.

The group was happy and relieved as they left the court. When TOI asked how they felt, Sakarben Gala, 78, and Ja-

yaben Shah, 75, chorused: "Bahu saru (very good)." Amit Shah, son of Arunaben, 67, said: "We stayed for almost 30-35 years in the old buildings. We have been out for seven years. We have an emotional attachment to the place. We are happy to be back."

A frail Suryaben Shah, 88, was the cynosure of all eyes. She sat slumped in a chair resting her feet, and while leaving appeared exhausted. A happy Pushpa Shetty, 59, distributed kachoris and chocolates.

Jitendra Shah, son of Dhanlaxmi Shah, 79, was in tears. After composing himself, he said: "He (builder) created hurdles for us to get our homes. Our fight is over."

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

WRIT PETITION NO. 2289 OF 2021

Tulsi Narla & Ors. ... Petitioners

Versus

State of Maharashtra & Ors. ... Respondents

Mr.Amogh Singh i/b. Mr. Bhavin Bhatia for the Petitioners.

Mr.Shanay Shah a/w. Mr. Chirag Sarawgi i/b. Mr.Tushar Goradia for Respondent No.7.

Shri Sunder K. Shetty, Smt. Chhaya R. Shah, Smt. Dhanlaxmi P. Shah, Smt. S.R.Jain, Shri Bhavesh Makvana, Smt. S.V.Gala, Shri H. K. Gada, Shri Girish Sakaria, Shri J.G. Shah, Shri Velji K. Gada, Smt. T.G. Narla, Smt. P.A. Shetty, Smt. Jayaben Shah, Smt. Pushpa A. Shetty, Smt. Sita Otmal Jain, Shri Otmal Dharmji Jain, Shri Surajkumar Otmal Jain, Smt. Suryaben J. Shah, Smt. Arunaben G. Shah, Shri Mahesh Pithadiya (original tenants), present in person.

CORAM : S.J. KATHAWALLA &

SURENDRA P. TAVADE, JJ.

DATE : 4TH NOVEMBER, 2021

(VACATION COURT)

P.C. :

1. To put an end to the long standing dispute between Respondent No. 7 ('the Developer') and the 21 Original Tenants of 'Earth Terrace' situated at Gajanan Colony, Goregaon (West), Mumbai - 400 104, pertaining to their right to receive Permanent Alternate Accommodation from the Developer, we had on 3rd November, 2021 directed the Developer to attend this Court today, along with the keys of the respective flats agreed to be allotted to the said 21 Original Tenants on ownership

basis. Accordingly, the Developer is present in Court and upon our directions he has handed over the keys of the flats to the Original Tenants and / or their respective legal heirs. The keys to Flat No. 1004 which is allotted to Shri Pragnesh Shah will be forwarded by the Developer to Shri Shah by 05.00 p.m. today at his residence.

2. Smt. Sakarben V. Gala and Shri Sunder K. Shetty have handed over to the Developers cheques drawn in favour of the Developer in the sum of Rs.7,12,800/- and Rs.1,69,269/- respectively, being the amount payable by them towards their respective additional areas purchased by them from the Developer. They undertake that the said cheques will be honoured when presented for encashment. The undertakings are accepted.

3. Shri Velji Karman Gada undertakes to handover a cheque of Rs.20,769/- to the Developer on or before 8th November, 2021, being consideration for the additional area purchased by him from the Developer. The undertaking is accepted.

4. Since the Original Tenants have accepted the keys of their respective new flats / tenements in Court itself, they are not required to issue any receipt / letter in respect of the same.

5. The Original Tenants and their respective Legal Heirs undertake to this Court to comply with all the terms and conditions contained in their respective Permanent Alternate Accommodation Agreements. The undertaking is accepted.

6. The charges, taxes, etc. payable by the Original Tenants in respect of their new flats shall be payable by the Original Tenants from the date of possession of

their respective flats, save and except the charges / taxes already paid by them in advance to the Developer.

7. The balance amount towards development charges if any, shall be paid by the Original Tenants and / or their respective legal heirs as agreed in Sub Clause (i) of Paragraph 2 of the Order passed by this Court dated 4th October, 2021.

8. Since the above Writ Petition is already disposed off, no further orders are required to be passed.

(SURENDRA P. TAVADE, J.)

(S.J. KATHAWALLA, J.)

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

WRIT PETITION (L) NO.20498 OF 2021

Tulsi Narla & Ors.Petitioners
V/S
State of Maharashtra & Ors.Respondents

...

Mr. Amogh Singh a/w Mr. Nikhil More and Moksha Doshi i/b Mr. Bhavin Bhatia for the Petitioners.

...

**CORAM : A.A. SAYED &
S.G. DIGE, JJ.**
DATE : 13 OCTOBER 2021.

P.C.:

- 1 Not on Board. Taken on Board.
- 2 Time to file an Indemnity Bond in terms of clause 2(ii) of order dated 4 October 2021 is extended by three working days from today.

(S.G. DIGE, J.)

(A.A. SAYED, J.)

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Mr. Amit Shastri a/w Mr. Laxmikant Satelkar, AGP for State.

Ms. Oorja Dhond for MCGM.

Mr. Shanay Shah a/w Mr. Chirag Sarawagi & Ms. Gauri Sakhardande i/b Mr. Tushar Goradia for Respondent No.7.

**CORAM :- A. A. SAYED &
S. G. DIGE, JJ.**

DATE :- 04 OCTOBER, 2021

P. C. :-

1. The Petition is filed by 18 Petitioners who claim to be tenants / heirs of tenants of 4 buildings i.e. Building Nos.1, 2, 3 and 4 known as Gajanan Colony situate at Village Eksar Pahadi. The said buildings were demolished and a new building has been constructed and an Occupation Certificate has been issued by the Respondent – Corporation in respect of the new building and the Petitioners are required to be handed over vacant possession of their premises / rooms in the new building as permanent alternate accommodation.

2. By consent of learned Advocates for parties, we pass the following order :

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1 of 2

- (i) Subject to the Petitioners paying the amount mentioned in clause 20 of their Agreement for Permanent Alternate Accommodation, the Respondent – Developer shall hand over vacant possession of their respective premises / rooms in the new building to the Petitioners within a period of one week from today.
- (ii) **Inasmuch as the Petitioner Nos.5, 10, 16, 17 and 18 are stated to be the heirs of the deceased tenant, the said Petitioners shall file an Indemnity Bond in this Court within 4 days from today that they shall indemnify the Respondent – Developer and that they shall take possession of the premises / rooms subject to the rights of other heirs, if any.**
- (iii) The Petitioners would be at liberty to adopt appropriate proceedings against the Respondent - Developer in respect of their claim for arrears of compensation for temporary alternate accommodation.
- (iv) The aforesaid order would also apply to the Respondent No.8 who was not present at the time of filing of the Writ Petition.
- (v) With the aforesaid directions, the Writ Petition is disposed of.

(S. G. DIGE, J.)

(A. A. SAYED, J.)