

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

WRIT PETITION NO.7168 OF 2014

Mr. Akshay s/o Hansraj Bora ... PETITIONER

VERSUS

The Maharashtra Housing and Area
Development Board & another ... RESPONDENTS

.....
Shri L.D. Vakil, Advocate for petitioner
Shri A.B. Kadethankar, Advocate for respondent No.2
.....

CORAM: R.M. BORDE &
 A.I.S. CHEEMA, JJ.

DATED: 23rd November, 2015.

ORAL ORDER :

1. Heard. The petitioner is praying for issuance of directions to the respondents to allot him the plot in terms of the allotment order issued by the MHADA in the year 2009. The petitioner, noticing certain anomaly in respect of permissible F.S.I. for raising construction or the height prescribed under the relevant regulations, did not deposit the amount within a timeframe prescribed by the MHADA. The respondents authorities, as such, issued notice to the petitioner, calling upon

him to deposit the amount. However, since the petitioner failed to pay the amount, his right to receive the plot was forfeited.

2. It is not a matter of dispute that the petitioner, on 29.6.2009, tendered application for refund of the amount deposited by him. At a later point of time, the petitioner expressed his willingness to pay the amount together with interest or some additional amount in the event the respondents/ authorities consider his request for allotment of the plot. The request made by the petitioner was not considered. As such, he approached this Court, by presenting Writ Petition no.936/2011, which came to be heard and decided on 26.9.2012. This Court issued directions to the respondents/ authorities to decide the claim of the petitioner within stipulated time. The request made by the petitioner was not considered by the authorities. As such, he approached the Lokayukta. In pursuance to the directions issued by the Lokayukta, the claim of the petitioner was again considered by the MHADA authorities. However, the same was rejected by communication dated 16.6.2014. It has been observed by the respondents/ authorities that the policy of levying interest @ 13.50% is applicable only for Konkan region and the same cannot be made applicable for the Marathwada region. The petitioner contends that the respondents/ authorities cannot be permitted to adopt discriminatory policy for different

regions.

3. The contentions raised by the petitioner could have been taken into consideration. However, since he has at earlier point of time in 2009 filed Writ Petition, which was withdrawn, and requested for refund of the amount deposited by him, we do not deem it appropriate to consider the contentions of the petitioner based on the discriminatory policies adopted by the respondents. However, in the facts and circumstances of the case, according to us, ends of justice would be met if the respondents/ authorities are directed to refund the amount deposited by the petitioner as earnest money, without interest. The Writ Petition stands rejected. However, the respondents/ authorities are directed to refund the amount of Rs.4,00,000/- deposited by the petitioner as expeditiously as possible, preferably within eight weeks from today.

(A.I.S. CHEEMA, J.)

(R.M. BORDE, J.)