

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER (ST) NO. 14675 OF 2015
WITH
CIVIL APPLICATION (ST) NO. 14676 OF 2015
IN
APPEAL FROM ORDER (ST) NO. 14675 OF 2015

Mohammed Aslam Abdul Razzak Mahimi ... Appellant

V/s.

Maharashtra Housing & Area Development ... Respondent
Authority, a Body incorporated under the
Provisions of MHADA Act.

Mr. A. M. Saraogi Advocate for Appellant
Mrs. Sharmila Deshmukh Advocate for Respondent

**CORAM : V.L. ACHLIYA, J.
(VACATION COURT)**

DATED : 2nd JUNE, 2015

P.C.

Heard learned counsel for the appellant and counsel representing the respondent. In nutshell it is the contention of the appellant that in response of notice received under section 95 of MHADA Act from Executive Engineer, Housing and Repair Board of MHADA, appellant has filed reply along with documents. There is an apprehension in the mind of the appellant that concerned authority may pass adverse order against the

appellant and dispossess him from the premises without according opportunity to challenge the order. Learned counsel submits that learned Judge of Trial Court has refused to grant ad-interim relief in favour of plaintiff/appellant and therefore this appeal. Learned counsel submits that in this appeal the appellant is seeking limited relief that in the event any order adverse to the interest of the appellant is passed in the matter, then appellant be given breathing time to challenge the order before appropriate forum.

2) Learned counsel for respondent submits that apprehension of petitioner is without any basis. Respondent have issued show cause notice so as to offer an opportunity of hearing to petitioner. Learned counsel further submits only after considering the reply and documents produced by the appellant, the concerned authority of MHADA will pass appropriate order in the matter. It is submitted that suit filed by the plaintiff itself is without any cause of action as issuance of show cause notice itself provides no cause of action for filing suit and claiming interim relief therein.

3) Having regard to the submissions advanced, I am of the view that without going into the merits of the matter, the Appeal preferred by

appellant can be disposed of with a limited direction to the authority concerned to give breathing time to the appellant to exercise his option to challenge the order, in the event, if any order passed adverse to the interest of the appellant. I am therefore, inclined to pass the following order.

ORDER

(i) Respondent is directed that in case, if any order is passed, adverse to the interest of appellant, then same shall not be implemented for a period of 2 weeks from the date of communication of order to the appellant.

(ii) Respondent will be at liberty to communicate the order by any mode of communication, including producing the copy of order in the Civil suit pending before City Civil Court. Placing of order on record of the City Civil Court in the pending Suit will amount to communication of order.

(iii) With these orders and directions, Appeal as well as Civil Application stands disposed of.

(V. L. ACHLIYA, J.)