

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****APPEAL FROM ORDER (ST) NO. 31632 OF 2015****IN****NOTICE OF MOTION NO. 1894 OF 2015****IN****S.C.SUIT NO.1418 OF 2015****ALONGWITH****CIVIL APPLICATION (ST) NO.31636 OF 2015****IN****APPEAL FROM ORDER (ST) NO. 31632 OF 2015****IN****NOTICE OF MOTION NO. 1894 OF 2015****IN****S.C.SUIT NO.1418 OF 2015****Shahjahan Abdul Majid Hawaldar****..... Appellant****VERSUS****Maharashtra Housing and Area Development
Authority****..... Respondents**

Mr.H.Shreepad Murthy, i/b. Mr.Abishek Patil for the Appellant.

Mr.P.G.Lad, a/w. Ms.Aparna Murlidharan for the Respondent MHADA.

Mr.Abhijit Desai for the Intervener and Applicant in Civil Application.

Mr.Tushar Mathakar, Land Manager present in person from MHADA Office.

CORAM : R.D. DHANUKA, J.

DATED : 24th NOVEMBER, 2015

P.C.

Mr.Lad, learned counsel for the MHADA on instruction from Mr.Tushar Dinkar Mathakar, Land Manager (Deputy Collector) states that the appellant would be given personal hearing by a person who is authorized to hear the matter and would consider all the documents as may be produced by the appellant and

would also consider the explanation given by the appellant before passing any order. The MHADA withdraws the orders dated 10th April,2015 and 16th June,2015 which are forming part of the compilation filed by the appellant before this court unconditionally.

2. It is made clear that the learned officer who will give personal hearing to the applicant will not be influenced by the observations and conclusion drawn in two orders passed by the two officers i.e. dated 10th April,2015 and 16th June,2015 and also all the observations made by the learned trial judge in the impugned order and shall pass an order in accordance with law after considering the submission and documents as may be filed or urged by the appellant and also the intervenor.

3. If the fresh order as may be passed by the officer is adverse against the appellant, the same shall not be implemented for a period of three weeks from the date of the effecting service of the said order. It is also made clear that the appellant would be entitled to raise the issue of jurisdiction of the concerned officer to decide the issue of cancellation of the allotment which was made to the appellant of the tenements in question.

4. In view of the withdrawal of the impugned orders dated 10th April,2015 and 16th June,2015 of MHADA, the impugned order passed by the learned trial judge does not survive and is accordingly set aside.

5. In view of the fact that after cancellation of the allotment made to the appellant by MHADA, the MHADA has allotted the said tenement to the applicant (intervenor), the applicant is also permitted to make representation before the concerned officer of MHADA and is allowed to appear at the time of hearing before the concerned officer. The learned officer shall also consider the

submissions as may be advanced and the documents as may be filed by the applicant before passing final order. The appellant as well as the applicant are directed to file their say along with the documents within one week from today and shall serve the said say with the document upon each other and in any event in advance before the next date of hearing before the concerned officer.

6. The applicant is directed to remain present before the learned Chief Officer (Mumbai Housing Board) on 8th December, 2015 at 11.00 a.m. It is made clear that no fresh notice will be issued to the appellant or to the intervener.

7. Appeal from order is disposed of in the aforesaid terms. No order as to costs.

8. In view of the disposal of the appeal from order, civil application filed by the appellant does not survive and is accordingly disposed of.

[R.D. DHANUKA, J.]