

Anand

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

WRIT PETITION (L) NO.839 OF 2015

Ahmed Hamid Poonawala & anr. .Petitioners

v/s.

Maharashtra Housing And Area .Respondents
Development & Ors.

WITH

NOTICE OF MOTION (L) NO.237 OF 2015

IN

WRIT PETITION (L) NO.839 OF 2015

Ahmed Hamid Poonawala & anr. .Applicants

IN THE MATTER BETWEEN

Ahmed Hamid Poonawala & anr. .Petitioners

v/s.

Maharashtra Housing And Area .Respondents
Development & Ors.

Mr.P.M.Havnur a/w. Ms Najafiya Shroff, Advocate,
for the Petitioners/Applicants

Ms S.V.Deshmukh, Advocate, for the Respondent
No.2

Mr.N.A.Ghate, Advocate, for the Respondent No.3

CORAM : A.A.SAYED, J.

DATE : 29.06.2015

P.C.

. This petition has been filed essentially challenging the order dated 19.03.2015 passed by the respondent No.2, Executive Engineer of MHADA. The petition has been filed by two petitioners, who are non-co-operating tenants out of the 62 tenants of the building belonging to the respondent No.3.

2. On 24.03.2015, this Court had passed the following order :

"1 Issue notice to the Respondent No.3, returnable on 30 March 2015. Hamdast is permitted.

2 Learned Counsel on behalf of Respondent Nos.1 and 2 seeks time to take instructions.

3 Considering the fact that overwhelming majority of the tenants/occupants have already vacated the building and the fact that the Petitioners have already filed a Suit in the City Civil Court, Mumbai, wherein no ad-interim orders of protection are

passed, I am not inclined to grant any ad-interim relief at this stage.

4 Stand over to 30 March 2015."

3. It is an admitted position that pursuant to the notice under Section 95-A of the MHADA Act and the order dated 19.03.2015 passed by the respondent No.2, Executive Engineer, the petitioners have been evicted from their respective premises with the help of local police on 24.03.2015 and the order dated 19.03.2015 has already been implemented.

4. In the circumstances, the petition has become infructuous considering the narrow scope of inquiry in proceedings arising from Section 95-A of the MHADA Act. Even otherwise, the Petitioners being non-co-operating tenants and all other tenants having vacated the building in anticipation of the proposed re-development, I am not inclined to entertain the petition. The

Writ Petition shall, accordingly, stand dismissed.

5. The petitioners have some grievance as regards the manner in which they have been evicted on 24.03.2015. The petitioners had therefore also taken out Notice of Motion, being Notice of Motion (L) No.237 of 2015 in the Petition inter alia praying for damages. Inasmuch as the Petition itself has been dismissed inter alia considering the supervening events and the narrow scope of inquiry under Section 95-A of MHADA Act, the Notice of Motion would not survive and shall stand dismissed. It will be open for the petitioners to adopt appropriate remedies for claiming damages etc. and/or to approach the CEO, MHADA in respect of their grievances. All contentions are kept open.

(A.A.SAYED, J.)