

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

WRIT PETITION (L)NO. 2549 OF 2015

Roshan Sirohia and Vijay Singh Dugar. ..Petitioner.

vs.

The Chief Officer and ors. ..Respondents.

Mr .Rakesh Agarwal for the Petitioners.

Mr. P.G.Lad for Respondent Nos. 1 and 2.

Mr. Pravin K.Samdhani,Sr.Advocate with Mr. Saket Mone and Mr. V. Kalva i/by Vidhi Parttners for Respondent No.3.

Mr.Ravi Kadam, Sr. Advocate with Mr. Saket Mone and Mr. V.Kalva i/by Vidhi Partners for Respondent No.4.

Mr.Sanjay Kharat with N. Shroff i/by P.M. Havnur for Respondent No.5.

**CORAM : M.S.SANKLECHA AND
G.S.KULKARNI, JJ.**

DATE : 01 SEPTEMBER, 2015

PC:

This petition challenges the order dated 28 August 2015 passed by the Executive Engineer (Respondent No.2) of Mumbai Housing and Area Development Board under Section 95A of the Maharashtra Housing and Area Development Act,

1976 ("the Act").

By the impugned order the petitioners have been directed to vacate the premises in their possession and shift to a temporary transit accommodation within 3-days from the receipt of the impugned order.

2) The petition as filed has arraigned, the MHADA Authorities as respondent Nos. 1 and 2, the Co-op. Housing Society in which the subject tenement is located as respondent No.3, the developer of the rehab building as respondent No.4 and also the original vendor of the subject tenement to the petitioner as respondent No.5. A civil suit being Suit No.3512 of 2010 is pending in City Civil Court between respondent No.5 and the petitioners with regard to the ownership of the subject tenement.

3) After we heard the petition for some time, the petitioner No.3 Co-op. Housing Society and respondent No.4

developer on the one hand and the petitioners on the other hand have agreed to resolve the dispute between themselves. The consent terms as agreed between them is taken on record and marked Exhibit "A" for identification and reads as under:-

MINUTES OF THE ORDER

1) The respondent No.4 shall pay the petitioners a sum of Rs.30,000/- (Rupees Thirty Thousand only) per month towards the monthly rental in respect of temporary accommodation as per the terms and conditions of the Development Agreement from today till the Occupation Certificate of the new rehab building is granted by the MGGM. The respondent No.4 shall keep one permanent alternative accommodation in the new rehab building to be constructed reserved and can be claimed by either the petitioners or the respondent No.5 subject to final outcome of Suit No.3512/2010 pending in the City Civil Court, Mumbai.

2) The Petitioners shall continue to pay/deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) in terms of the order dated 23rd September 2010, passed in Notice of Motion No.1091 of 2010 in Suit No.9756 of 2010, till final disposal of the suit transferred to City Civil Court being Suit No.3512 of 2010.

3) The Respondent No.4 shall deposit a sum of Rs.8,50,000/- (Rupees Eight Lakhs Fifty Thousand only) which includes Corpus (Rs.3,00,000/-), Hardship Compensation (Rs.4,00,000) Relocation and inconvenience charges (Rs.50,000) and Non Refundable Deposit (Rs.1,00,000) as per the development Agreement in Suit No.3512 of 2010 pending in the City Civil Court at Bombay, within a period of 7 days from today.

4) The Petitioners shall hand over vacant and peaceful possession of the premises being "Room No.5, Ground floor, Versova, Andheri Sai Siddhi CHS Ltd., Plot No.7, SVP Nagar, MHADA, Andheri, Mumbai 400053, within a period of 7-days from today.

5) The above order is without prejudice to the rights and contentions of the parties in Suit No.3512 of 2010 pending in the City Civil Court at Bombay and subject to the final outcome of the said suit."

4) Respondent No.5 namely the vendor of the subject tenement has not consented to the above arrangement. It is submitted by respondent No.5 that the petitioners who would be receiving the amount of Rs.30,000/- per month towards the

monthly rental in respect of the temporary accommodation should give an undertaking to this Court that in case the suit filed by respondent No.5 bearing Civil Suit No.3512/2010 against the petitioners in the City Civil Court is decreed in his favour, the amount received by the petitioners at Rs.30,000/- per month would be paid over to him. We are not passing any order on the above submission as the Respondent No.5 is at liberty to move the City Civil Court at Bombay in Suit No.3512/2010 seeking appropriate orders and directions in respect of the aforesaid amount.

5) In terms of this order the Registrar of Civil Civil Court, Bombay is directed to accept the deposit to be made by respondent No.4 in terms of para 3 of the Minutes of order arrived at between the petitioners and respondent Nos. 3 and 4 as recorded herein above.

6) The petition stands disposed of in the above terms.

Parties to act on a copy of this order duly
authenticated by the Associate of this Court.

(G.S.KULKARNI, J.)

(M.S. SANKLECHA, J.)