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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION No. 206 OF 2014

M/s. Millennium Court Co-operative
Housing Society Ltd.

..Petitioner

Vs.

The State of Maharashtra and Ors.

...Respondents

Mr.Y.S. Jahagirdar, Senior Counsel with Mr. S.R. Nargolkar for
Petitioner

Mr.D.A. Nalavade – Government Pleader for Respondent No.1

Mr.P.G. Lad for Respondent Nos.2 and 3

Mr. Aumkar Joshi for Respondent No.4

CORAM : V. M. KANADE
REVATI MOHITE DERE

DATE : JANUARY 14, 2015

P.C. :

1. Leave to amend is granted to correct the name of Respondent No.4. Amendment to be carried out forthwith. By order dated 7th January, 2014, we had directed the MHADA Authorities to inform this Court the time frame within which the encroachment on the said plot of land will be removed. Respondent No. 4 has filed an affidavit-in-reply, stating therein that he has no objection if the encroachers are temporarily relocated on the plot bearing CTS No. 9/B//3 till they are shifted to transit accommodation of the Developer – Seva CHS (Proposed).

2. Respondent Nos.1 and 2 have filed their affidavit in reply dated

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3rd January, 2015. In paragraph 12 of the said affidavit in reply, Respondent No.2 has stated that it is the responsibility of the Developer and Society to provide transit accommodation to the eligible occupants and that Respondent No.2 is seriously pursuing the matter for removal of the encroachment on the Petitioner's land as assured by them as per Clause 5 of the Lease Deed.

3. The grievance of the Petitioner is that more than one year has passed. However, no concrete steps have been taken by Respondent No.2 for removing the encroachment and to comply with the assurance given by them in Clause 5 of the lease deed.

4. Respondent No. 4 has now filed an affidavit stating therein that he has no objection for shifting the encroachers on the Petitioner's land to the open plot owned by Respondent No.4. This affidavit has been filed by Mr. Gautam S. Pawar, Authorized Signatory of Respondent No.4 dated 12.1.2014.

5. In our view, there cannot be any impediment for MHADA Authorities for removing the encroachment from the plot of land which is being developed by the Petitioner.

6. Though on the last date, we had directed the MHADA Authorities to give the time frame within which the encroachers will be removed, no reply has been filed. We are, therefore, of the view that the MHADA will have to be directed to remove the encroachment in view of the affidavit filed by Respondent No.4. The writ petition can be conveniently disposed of by directing the MHADA Authorities to remove the encroachment after taking the help of police authorities

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and these encroachers then to be shifted to the open plot of land owned by Respondent No.4 within four weeks. Thereafter the MHADA Authorities shall transfer them to the temporary transit accommodation. With these directions, writ petition is disposed of.

[REVATI MOHITE DERE, J.]

[V. M. KANADE, J.]