

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9219 OF 2015

Sushila Poma Chavan and others

.. **Petitioners**

Versus

The State of Maharashtra,

Through the Collector, Latur and others .. **Respondents**

Shri Sanjay V. Mundhe, Advocate for Petitioners.

Smt. A. V. Gondhalekar, A. G. P. for Respondent No. 1.

Smt. Sanghmitra Wadmare, Advocate for Respondent Nos. 2 and 3.

Respondent No. 4 served.

CORAM : S. V. GANGAPURWALA AND
K. K. SONAWANE, JJ.

DATE : 3RD AUGUST, 2016.

PER COURT :-

1. Mr. Mundhe, the learned counsel submits that, Petitioners are residing in the tenements allotted by Maharashtra Housing and Area Development Authority (hereinafter referred as 'MHADA') under its scheme. The Petitioners have paid the installments of the properties. They have also given deposits. Abruptly, Respondent Nos. 2 and 3 issued notices asking arrears of rent to be deposited within 24 hours or else the immovable properties of the Petitioners would be attached. The learned counsel submits that, the said notices of attachment are without issuing any notices of assessment of rent or asking for the arrears of rent. The Respondents do not have any authority to directly attach the properties of the Petitioners. All the earlier deposits made, installments paid are not at all considered while issuing

the impugned notices. The Petitioners have given the calculations showing the amount due and payable. The Petitioners are not running away from their liability. Further the said adjustment of the installments paid and deposited is not made by the Respondents. The Petitioners are the poor labourers and under the scheme the said tenements are allotted to them. The Petitioners have paid installments regularly and have also paid the deposits.

2. The learned counsel for Respondent Nos. 2 and 3 submits that, since 10 years the Petitioners are occupying the tenements, however, are not paying the rent, as such, the said action was initiated against the Petitioners. The said action is in consonance with the directions of the Maharashtra Land Revenue Code. The Petitioners are chronic defaulters. The Petitioners are liable to pay local taxes to the Municipal Council and the rent to MHADA. The taxes being paid to the Municipal Council are not included in the rent. The Petitioners have also not formed the co-operative society. All amenities are provided, action has been rightly taken.

3. The fact that the Petitioners are occupying the tenements is not disputed. The liability to pay the amount is also not disputed, however, the quantum of amount claimed by the Respondents is disputed by the Petitioners. The Petitioners as well as the Respondent Nos. 2 and 3 have given the details of the amount outstanding and payable by the Petitioners. We need not go into the said dispute.

4. Considering the fact that Petitioners are occupying the said tenements for 10 years it would also not be proper to take coercive steps against the Petitioners at the first instance. The Petitioners may make their grievance before the authorities with

regard to the adjustment of any amount paid and it is for the authorities to consider the said grievance. Considering the above, we pass the following order.

5. The impugned notices as such are set aside. The Petitioners shall pay the amount outstanding as per their calculations as detailed in para 11 of the present petition to the Respondent Nos. 2 and 3 within a period of one (1) month from today. The Respondent Nos. 2 and 3 may accept the said amount without prejudice to the claim of respective parties. The Petitioners shall file the applications with the Respondents with regard to the adjustment they claim. The Respondents – authorities shall consider the said applications and take decision upon said applications and communicate the said decision to the Petitioners. If, any of the party is aggrieved by the said decision the aggrieved party has liberty to take up appropriate proceedings.

6. The Petitioners shall give representation to the Respondents with regard to the adjustments claimed and about their liability within a period of 15 days.

7. The Writ Petition accordingly disposed of with aforesaid observations and directions.

[K. K. SONAWANE, J.]

[S. V. GANGAPURWALA, J.]