

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

WRIT PETITION NO. 1555 OF 2012

Mr. Amod Ballabh Bhatt	}	Petitioner
versus		
The Maharashtra Housing Area	}	
Development Authority and Ors.	}	Respondents

Mr. Vishwanath Patil with Mr. Yuwraj D.
Patil for the Petitioner.

Mr. Shankar P. Thorat for Respondent
Nos. 1 to 3.

Mr. Mahendra Nandal Sandhyanshiv for
Respondent No. 4.

CORAM :- S. C. DHARMADHIKARI &
G. S. PATEL, JJ.

DATED :- FEBRUARY 3, 2016

P.C. :-

1) When this Petition was before us on the earlier occasion, we had noted the complaint of the Petitioner that the allotment in Respondent No. 4's favour is bad in law and in any event after the allotment, Respondent No. 4 has not occupied the premises, but had inducted illegally and unauthorisedly a third party therein.

2) The service report of the service of a copy of this Petition resulted in confirmation of this allegation.

3) Therefore, we called upon Respondent Nos. 1 to 3 to inform the Court as to what action they would take after noticing the illegal occupant in the Housing Board Premises.

4) Mr. Thorat is present in Court and is appearing for Respondent Nos. 1 to 3. He says that Respondent Nos. 1 to 3 are aware of the earlier order passed by this Court, to which, one of us (S.C.Dharmadhikari, J.) was a party, on 25th June, 2015.

5) Mr. Thorat states that *prima facie* the allegation made by the Petitioner appears to be correct. A surprise inspection report also reveals the presence of some third party in the premises. The third party is identified as one Mr.Chandrashekhar Jadhav. On instructions, Mr. Thorat states that a further show cause notice would be issued to both, Respondent No. 4 and the alleged illegal and unauthorised occupant Mr. Chandrashekhar Jadhav and the MHADA will invoke section 66 of the Maharashtra Housing and Area Development Act, 1976. An opportunity will be given to both parties to reply to the show cause notice and within a period of four weeks from the receipt of the reply, an order will be passed in furtherance of the show cause notice. All the statements made by Mr. Thorat, on instructions, are accepted as undertakings to this Court.

6) In the event the Petitioner desires to remain present at any such hearing, which is to be held in pursuance of the show cause notice, Respondent Nos. 1 to 3 may allow him to remain present and produce such documents as are relevant for the controversy.

7) We have sufficiently redressed the grievance of the complainant of the Petitioner. We have activated the parties as well and now they are initiating the requisite legal proceedings. Nothing, therefore, now remains to be done as far as this Court is concerned in the present Petition. In the event the Petitioner is desirous of obtaining allotment in his favour, he is at liberty to apply to the authorities for an allotment under any specific quota in his favour or he is free to also apply in the event Respondent Nos. 1 to 3 advertise any scheme of allotment of housing accommodation under the low income group, middle income group or higher income group. The Petitioner may choose any of these groups and commensurate with his income. We cannot see how even if the present occupant is displaced, this Court can place the Petitioner in possession of the premises allotted to Respondent No. 4. The Writ Petition, therefore, need not be kept pending. It is disposed of.

(G.S.PATEL, J.)

(S.C.DHARMADHIKARI, J.)