

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO.3119 OF 2016

Shri Shyam Jagannath Rajput. .. Petitioner
Vs
State of Maharashtra and Others. .. Respondents

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Shri Sachin P. Shetye for the Petitioner.
Shri S.A. Karmakar, AGP for the Respondent No.1 State.
Shri P.G. Lad for the Respondent No.2-MHADA.
Shri Sanjay Jain along with Shri Mayur Khandeparkar and Shri Sharad
Wakchaure i/b Kishore Thakordas & Co for the Respondent Nos.6 to 8.
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CORAM : A.S. OKA & A.M. BADAR, JJ
DATED : 24TH NOVEMBER 2016

PC.

1. Not on board. Taken on board.
2. Heard learned counsel appearing for the Petitioner and the learned counsel appearing for the sixth to eighth Respondents. We have also heard the learned counsel appearing for the second Respondent.
3. The learned counsel appearing for the second Respondent on instructions states that the notice under Section 95-A-2 of the Maharashtra Housing & Area Development Act, 1976 dated 9th November 2016 (Exhibit-I to the Petition) has been issued by the Executive Engineer. Though there is no final order of eviction passed by

the Chief Officer of Mumbai Building Repairs and Reconstruction Board, on instructions, he states that the said notice dated 9th November 2016 stands withdrawn. He states that after the order of eviction, if any, is made under Section 95-A-2 of the MHADA, the said order will be served to the Petitioner at his address mentioned in the Petition and that the said order will not be executed for a period of four weeks from the date on which the said order was served upon the Petitioner.

4. We accept the said statement. In view of this statement, it is crystal clear that the Respondents are not entitled to evict the Petitioner unless the order of eviction is served upon the Petitioner and unless the period of four weeks expires from the date on which the order of eviction is served upon the Petitioner.

5. In view of what is observed above and the statement made by the learned counsel appearing for the second Respondent on instructions, it is not necessary to entertain this Petition. Accordingly, the Petition is disposed of. Needless to state that if at all the order of eviction is passed, it will be open for the Petitioner to challenge the same in accordance with law.

(A.M. BADAR, J)

(A.S. OKA, J)