

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10968 OF 2016
(Ramesh Gunvantrao Matade Vs. The Appellate Officer,
appointed under the Maharashtra Housing and Area
Development Act, 1976 and others)

Mr. S.S. Thombre, Advocate for the Petitioner
Mr. A.R. Kale, A.G.P. for the respondent/State
Mr. U.S. Mote, Advocate for respondent No. 3
Mr. P.S. Dighe, Advocate for respondent No. 4

CORAM : T.V. NALAWADE AND
SANGITRAO S. PATIL, JJ.

DATE : 23rd FEBRUARY, 2017

ORAL ORDER :

Heard both sides.

2. The petition is filed to challenge the order of eviction, dated 24th September, 2013, passed by the Authority under the Maharashtra Housing Area Development Authority Act, 1976 (for short, "the Act") and also against the decision given in an appeal filed by the petitioner under the said Act.

3. It appears that the disputed premises was allotted to the husband of respondent No. 4 by the Maharashtra Housing Area Development Authority ("MHADA", for short). It is the case of the petitioner that in

the year 1983, the premises was given on lease to the petitioner by allowing him to reside therein and since then, he is in possession of the premises. Respondent No. 4 had filed one civil suit against the petitioner; however she could not get decree against the petitioner.

4. On the other hand, the learned counsel for respondent Nos. 1 to 3 submitted that in breach of the provisions of the Act, the petitioner was found in possession of the premises.

5. We have gone through the contentions made by the petitioner and respondent No. 4 in the civil suit. An attempt was made by respondent No. 4 to prove that by way of mortgage deed, the petitioner was put in possession. An alternate case was also put up that the petitioner was liable to pay some amount periodically. The Civil Court dismissed the suit by holding that the premises was at the disposal of MHADA.

6. After visiting the premises by the officers of MHADA and after making enquiry, the proceeding for eviction was initiated. The record shows that an opportunity was given to the petitioner during the

proceedings to satisfy that he cannot be evicted from the premises.

7. The submissions made would show that in the year 1986, a notice was published by the MHADA and it had asked the illegal occupants to make applications if they were having possession on the basis of lease and get the possession over the premises regularized from MHADA. Even if the contention with regard to such notice is considered, the petitioner cannot get any relief in the present matter. The present petition is filed to challenge the order of eviction. Further, respondent No 4 is not residing with the petitioner. In view of this circumstance and when MHADA has obtained the order of eviction against both the original allottee and the petitioner, we are of the opinion that it is not possible to issue any direction under the extraordinary jurisdiction of this Court. Further, no relief seeking such direction is claimed. The Writ Petition is therefore dismissed in those terms.

[SANGITRAO S. PATIL]
JUDGE

[T.V. NALAWADE]
JUDGE

