

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**APPEAL FROM ORDER No. 384 OF 2015
WITH
CIVIL APPLICATION No. 497 OF 2015 IN A.O. No. 384 OF 2015**

Maharashtra Industrial Development Corporation	... Appellant/Applicant
Vs.	
Neela K.R. Somrajan & Anr.	... Respondents

**WITH
APPEAL FROM ORDER No. 891 OF 2014
WITH
CIVIL APPLICATION No. 1066 OF 2014 IN A.O. No. 891 OF 2014**

Hubtown Limited	... Appellant/Applicant
Vs.	
Neela K.R. Somrajan & Ors.	... Respondents

Mr. Prashant Chavan i/b. Mr. Navdeep Vora Associates, Advocate for the appellant/applicant in AO/384/2015 and respondent no. 2 in AO/891/2014.

Mr. Vinod Pandey i/b. Mr. Kunal Bhanage, Advocate for respondent no. 1 in both the AOs.

Mr. Anil R. Mishra, Advocate for the appellant in AO/891/2014 and respondent no. 2 in AO/384/2015.

**CORAM: MRS.MRIDULA BHATKAR, J.
DATE: 11th August, 2017.**

P.C.:

Today the learned counsel for the appellant in Appeal from Order No. 891 of 2014 who is also respondent No. 2 in Appeal from Order No. 384 of 2015 submitted that the appellant have handed

over the possession of the transit premises to the respondent/original plaintiff. He produced photographs showing the water connection and electricity.

2. The learned counsel for respondent no. 1/original plaintiff in S.C. Suit No. 22 of 2013 confirms that he has taken the possession of alternate accommodation, however, his entitlement to the larger area, i.e., 53.33 sq. mtrs. is not assured by the present appellants/defendants. The learned counsel submitted that this area has been offered to respondent no.1/original plaintiff by the appellant/developer and appellant MIDC has consented to the said area.

3. The learned counsel for the appellant/MIDC and learned counsel for the appellant/developer both refused that their offer stands as on today and they submitted that the offer was given earlier; against which the learned counsel for respondent no. 1/original plaintiff submitted that the offer given earlier was accepted by the plaintiff.

4. The learned counsel for the respondent no.1/original plaintiff submitted that the plaintiff has filed the suit challenging the legality of

the notices given by MIDC and he would like to amend his plaint in the light of subsequent development which have taken place in Appeal from Order.

5. Considered the submissions. The submission of handing over the possession of transit premises with all basic necessities of drainage line, electricity and water supply is accepted. In view of the orders passed by my predecessor dated 3rd May, 2016, 24th July, 2017 and 31st July, 2017, both the parties have complied with the directions given by this Court. Hence, the Appeals from Order can be disposed of with the following directions:

- (i) The respondent no.1/original plaintiff has taken the possession of the alternate premises with all facilities like electricity, drainage line and water supply, hence he shall vacate the regular premises till 14th August, 2017
- (ii) The respondent/original plaintiff is given liberty to make application for amendment of the plaint. The learned counsel for the original plaintiff submits that he will file the Application for amendment of plaint within two weeks;
- (iii) All the issues in respect of entitlement as mentioned in the earlier orders dated 3rd May, 2016 and 31st July, 2017

are kept open for adjudication.

6. Both the Appeals from Order are disposed of. Civil Applications are also accordingly disposed of.

(MRIDULA BHATKAR, J.)