

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

APPEAL FROM ORDER (ST.) NO. 34570 OF 2017

M/s. Siroya Keystone

...Appellant

Versus

Satishkumar Mithailal Mourya & Anr.

...Respondents

.....

Mr.Mayur Khandeparkar i/b. Mr. Vikas B. Pandey for the Appellant.
Mr.A.N.Giri a/w. Mr. Sagar B. for the Respondents.

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**CORAM: MRS.MRIDULA BHATKAR, J.
DATE : DECEMBER 18, 2017**

P.C.:

1. This Appeal is directed against the order dated 2nd December, 2017 passed by the learned Ad-hoc Judge, City Civil Court & Asstt. Sessions Judge, Dindoshi, Mumbai in Draft Notice of Motion in S.C.Suit No. 3468 of 2017.

2. This pertains to the suit structure, which is in slum, where the SRA is working through respondent no.2/ M/s. Unity Group Builders and Developers, who have engaged the present appellant to carry on

work. The grievance of respondent no.1/ original plaintiff is that he is eligible to get a separate premises in lieu of his old premises, which is occupied by him. The appellant was put in possession of the suit premises by way of gift deed of Arvind R. Mourya. However, Maharashtra Housing Area Development Authority (MHADA) has not considered him as an eligible occupant and did not offer him an alternate premises and, therefore, he is not vacating the suit premises.

3. Learned counsel for the appellant has submitted that this SRA scheme is not disputed by the plaintiff/ respondent no.1. Due to the order of status quo passed by the learned Judge of the trial Court, the entire scheme is stopped. The appellant is ready to pay Rs. 12,000/- p.m. to the plaintiff/ respondent no.1. He has further submitted that the appellant without prejudice is ready to deposit the rent of three months i.e. Rs. 36,000/- in the account of the plaintiff/respondent no.1 and keeping open all his claim and contentions, subject to the decision of the Officer of MHADA. He has further submitted that the appellant is ready to provide alternate accommodation, subject to the the order passed by the Competent Authority.

4. Learned counsel for respondent no.1/original plaintiff has submitted that his eligibility is not decided by the Competent Authority for a long time. He has further submitted that the plaintiff/ respondent no.1 is eligible and bona fide claimant of the alternate premises.

5. Perused the impugned order. Considered the pleadings and submissions of the learned counsel for both the parties. Due to the order passed by the learned Judge of the trial Court, the entire scheme has become standstill. The eligibility of the plaintiff/ respondent no.1 is required to be decided by the Competent Authority.

6. I am informed by the learned counsel for the plaintiff/respondent no.1 that earlier he has filed Appeal No. 709 of 2012 on 6th June, 2012 before the Secretary, SRA for declaration of his eligibility and inclusion of his name in annexure II. As per the Government Resolution, such issues are to be entertained by the Deputy Chief Officer, Marketing, MHADA, Bandra, Mumbai. Thereafter, the appellant has filed an application dated 10th December, 2015, however, it is not numbered, but it is still pending

before the Deputy Chief Officer. I am further informed by the learned counsel for the plaintiff/respondent No. 1 that he is ready to vacate the premises, however, his eligibility is to be decided by MHADA at the earliest.

7. In view of the above, I pass the following order :

(i) The Deputy Chief Officer, Marketing, MHADA, Bandra, Mumbai shall decide the application preferred by the plaintiff/respondent no.1 in respect of his eligibility and inclusion of his name in annexure II in accordance with law on or before 28th February, 2018. The learned counsel for both the parties shall communicate this order to the Officer of MHADA on or before 22nd December, 2017. The office of MHADA to act upon an authenticated copy of this order.

(ii) The appellant shall deposit an amount of Rs. 36,000/- in the account of the plaintiff/respondent no.1 on or before 22nd December, 2017 and the plaintiff/respondent no.1 shall vacate the premises on or before 8th January, 2018.

(iii) The Notice of Motion is pending and it is fixed on 6th January, 2018. The respondents to file their reply and the Notice of Motion will be decided after 28th February, 2018.

8. With this, Appeal from Order is disposed of.

(MRIDULA BHATKAR, J.)