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

WRIT PETITION No. 803 OF 2014

Smt. Usha Deepak Sakpal ... Petitioner
Vs.
The State of Maharashtra & Ors. ... Respondents

Mr. Anil S. Patel, for the Petitioner.
Ms. Kavita N. Solunke, AGP for Respondent No. 1.
Mr. P. G. Lad, for the Respondent Nos. 2 & 3 – MHADA.
Mr. Sandeep Bane, for Respondent No. 8.

CORAM : V. M. KANADE, &
C. V. BHADANG, JJ.

DATE : APRIL 5, 2017

PC.

1. In our view, the petition contains several disputed question of facts. The Petitioner claims to be an owner of the gala, which according to him, is purchased from Respondent No. 7. It is his case that the allotment made in favour of Respondent No. 7 was illegally cancelled by the MHADA by an order dated 13.8.2013.

2. On the other hand, it is case of the MHADA that since

permission was not obtained from the MHADA, the transfer in favour of Petitioner and the allotment made in favour of Respondent No. 7 – Sharad Kisan Auti has been cancelled. Respondent No. 7 has already filed a suit claiming ownership of the said gala, which is pending in the city civil court.

3. We are therefore, of the view that Petitioners will have to file an independent suit to claim title over the said gala, and it is not possible for this Court to go into the disputed question of facts. Writ petition is, therefore, disposed of reserving the right of the Petitioner to file an independent suit in the City Civil Court, which may be decided on its own merits and in accordance with law.

Sd/-
[C. V. BHADANG, J.]

Sd/-
[V. M. KANADE, J.]

Vinayak Halemath