

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

WRIT PETITION (L) NOs.3125/2016 WITH 3182/2016

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Vishwajeet Kapse i/b. Kunal Rane for the Petitioner in 3125/2016

Mr. Vishwajeet Kapse i/b. K. R. Iyengar for the petitioner in 3182/2016

Ms. Supriya Ghadge i/b. Kamlesh Ghumare for MHADA in 3125/2016

Mr. Nikhil Patil i/b. V. P. sawant for respondent Nos.1 and 2 in 3182/2016

Mr. Harish Pawar for respondent No.4 in 3182/2016

Mr. I. M. Khairdi with Prashant A. Pashte for respondent Nos.5 to 7 in both Writ Petitions

CORAM : K. K. TATED, J.

DATE : FEBRUARY 2, 2017

P.C.:

1. Heard. The learned counsel for the petitioner submits that in both the proceedings, the main contesting parties are respondent Nos.5 to 7 only. He submits that the other respondents are formal parties.

2. By these petitions, the petitioners challenge the order dated 10.06.2016 passed by the Vice Chairman and Chief Executive Officer, MHADA,

holding that respondent Nos.5 to 7 are entitled to rooms in redeveloped building being Flat No.202 and 302.

3. It is the contention of the petitioners that they are also legal heirs of the original tenant. He submits that without issuing any notice to them, the respondent No.1 has decided the matter and passed the impugned order dated 10.06.2016. He submits that they have several documents to show that they are also entitled for allotment of Flat No.202 and 302. He submits that as the impugned order is passed without hearing the petitioner, same is required to be set aside with direction to respondent No.1 to pass a fresh order after hearing the petitioners.

4. On the other hand, the learned counsel for the contesting parties i.e. respondent Nos.5 to 7 submit that they have no objection if the order is set aside and the matter is remanded to respondent No.1 for decision on its own merits after giving opportunity to both the parties to file their affidavits and documents.

5. Considering these facts, by consent of the petitioner and respondent Nos.5 to 7, following order is passed:

- a. Order dated 10.06.2016 passed by the Vice Chairman and Chief Executive Officer, MHADA in both the matters is set aside.
- b. The matters are remanded to respondent No.1 for rehearing after giving opportunity to both the parties to file their Affidavit-in-Reply and documents, if any.
- c. The respondent No.1 to decide the matter afresh after hearing both the parties.
- d. Both the parties are directed to maintain *status quo* in respect of both the rooms till decision of respondent No.1.
- e. Both the Writ Petitions stand disposed of accordingly.
- f. Both the parties to remain present before respondent No.1 on 20.02.2017 at 11.00 am for fixing the schedule of hearing.
- g. Parties to act on an authenticated copy of this order.

JUDGE