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

***CIVIL APPLICATION NO.685 OF 2018
IN
CIVIL REVISION APPLICATION (ST) NO.28189 OF 2018***

Shaikh Abdul Razzak S/o. Abdul Rehman ... Applicant
Versus
M/s.A1 Hamd Developers,
Through its proprietor Maqsood Ahmed Solanki and Ors....Respondents

***WITH
CIVIL REVISION APPLICATION (ST) NO.28189 OF 2018***

M/s.A1 Hamd Developers,
Through its proprietor Maqsood Ahmed Solanki ...Applicant
Versus
Shaikh Abdul Razzak S/o. Abdul Rehman and Ors. ...Respondents

***WITH
CIVIL REVISION APPLICATION NO.551 OF 2018***

M/s.A1 Hamd Developers,
Through its proprietor Maqsood Ahmed Solanki ...Applicant
Versus
Zafarullah Izzatullah Khan and Ors. ...Respondents

Mrs.Sana Yusuf Baugwala, i/b Mr.Y.S.Baugwala, for the Applicant in Civil Application No.685 of 2018 and for the Respondent No.1 in Civil Revision Application (St) No.28189 of 2018.

Mr.S.A.Khan, a/w Mr.Parth Zaveri i/b Judicare Law Associates, for the Original Applicant in Civil Revision Application (St) No.28189 of 2018 and Civil Revision Application No.551 of 2018 and for the Respondent No.1 in Civil Application No.685 of 2018.

Mr.Sharique Nachan i/b Mr.Akhlaque M.S.Solkar, for the Respondent Nos.2 and 3 in Civil Revision Application (St) No.28189 of 2018 and for the Respondent Nos.7 and 8 in CRA No.551 of 2018.

Mr.P.G.Lad a/w Ms.Sayli Apte, for the MHADA.

CORAM : REVATI MOHITE DERE, J.

***DATE : 21st DECEMBER, 2018
(IN CHAMBERS)***

P.C. :

1. Heard learned counsel for the respective parties.
2. Learned Counsel for the Applicant does not press this Application. She submits that it may be clarified that the Applicant i.e. Respondent No.1 in Civil Revision Application (St) No.28189 of 2018 was asked to vacate the premises, only considering the fact that the building was stated to be a dangerous building. She submitted that it may be clarified, that merely because the Applicant was directed to vacate the said building would not mean that the Court had given permission for re-development of the said building.
3. Learned Counsel for the Respondent No.1-Original Applicant in Civil Revision Application (St) No.28189 of 2018 and Civil Revision

Application No.551 of 2018, does not dispute the fact that the order dated 25th October, 2018 was passed having regard to the fact that the building was stated to be a dangerous building and hence the Respondent No.1 - Shaikh Abdul Razzak S/o. Abdul Rehman, (Applicant in Civil Application No.685 of 2018) was asked to vacate the said premises. Learned Counsel also does not dispute the fact that in the said order dated 25th October, 2018, all contentions of parties were kept open including the right of the Applicant (Respondent No.1 in Civil Revision Application (St) No.28189 of 2018), to agitate before the appropriate Authority i.e. Mumbai Building Repairs and Reconstruction Board. Accordingly, it is clarified that the Applicant - Shaikh Abdul Razzak S/o. Abdul Rehman, was asked to vacate the premises, only having regard to the fact, that the building was termed as a dangerous building.

4. Mr.Lad, learned counsel for the MHADA states that MHADA has withdrawn the order/letter dated 27th November, 2018 and has issued a fresh letter dated 20th December, 2018 to the Applicant, granting transit accommodation to the Applicant and others. He submitted that in case the Applicant is not interested in shifting to the transit accommodation, it is

always open for him to find a suitable accommodation at his own cost.

5. Mrs.Baugwala, learned Counsel for the Applicant seeks time to check the accommodation. Accordingly, the Applicant - Shaikh Abdul Razzak S/o. Abdul Rehman, to inform MHADA within two weeks from today, whether he intends to shift into the MHADA premises allotted to him at Borivali, without prejudice to his rights and contentions, or whether he intends to find his own private accommodation.

6. In view of what is stated hereinabove, learned counsel for the Applicant does not press Civil Application No.685 of 2018 and seeks leave to withdraw the same.

7. Civil Application No.685 of 2018 is accordingly disposed of as withdrawn, with the aforesaid clarifications.

8. At this stage, Mrs.Baugwala, learned Counsel for the Applicant requests for three weeks time to enable the Applicant-Shaikh Abdul Razzak S/o. Abdul Rehman, to shift to the premises allotted by

MHADA or to his own private accommodation.

9. Only by way of indulgence and as a last chance, the Applicant is granted three weeks time to vacate the premises.

10. It is made clear that this Court whilst passing the order dated 25th October, 2018, has not considered whether the building can be repaired or not and as such all contentions of the parties before the Mumbai Building Repairs and Reconstruction Board are kept open.

11. Civil Revision Application (St) No.28189 of 2018 and Civil Revision Application No.551 of 2018, to be placed before the Regular Court, on 8th January, 2019.

REVATI MOHITE DERE, J.