

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

WRIT PETITION NO.2534 OF 2008

Hasmukh Maneklal Panchal and others ..Petitioners

Versus

Maharashtra Housing and
Area Development Authority and others ..Respondents

Mr. Rakesh D. Kumar a/w Mr. L. V. Bommer, Mr. Shivkumar S. Mishra I/by M/s. Vaibhav Mehta and Associates, Advocates for the Petitioners.

Mr. Kamlesh Ghumre, Advocate for Respondent Nos.2 & 3 – MHADA.

Ms. Noorseema M. V. Baig, Advocate for Respondent Nos.3 to 6, 8 to 12, 15, 17, 21-24, 27, 28, 30, 32.

Mr. Avinash Gote – Joint Chief Officer and Mr. Milind Kulkarni, Dy. Commissioner & Mr. Avdhoot Belnekar – Estate Manager – MHADA are present in Court.

**CORAM : B. R. GAVAI &
DAMA SESHADRI NAIDU, JJ.
DATE : 25th MARCH, 2019**

P.C.

1] The Petitioners have approached this Court with two fold grievance. First that the Petitioners were tenants of a dilapidated building, and they were required to vacate the same and shift to the transit accommodation. However, while redeveloping, the Respondent – MHADA has implemented the said scheme with

another scheme, wherein the land was taken for development of DP road.

2] It is the second contention that in the reconstructed building, there are 31 tenements available, whereas the total number of tenants were 62. It is the case of the Petitioners that though 14 tenants have left the premises. The names of the persons who have abandoned the premises are not in the said list included.

3] Insofar as the first grievance of the Petitioners is concerned, we find that the Petitioners have no locus to raise the said issue. The Petitioners are only entitled to permanent alternate accommodation, on account of they being vacated from their dilapidated building. Insofar as the grievance regarding including the persons who have abandoned premises is concerned, a specific stand is taken in an affidavit filed by Ravindranath Kashinath Mathpati, Deputy Chief Officer (Reconstructed Tenements), Mumbai Building Repairs and Reconstruction Board. It will be relevant to refer to paragraph 5 of the said affidavit :-

“5. I say that in consonance with the said Regulations, a specific stand is taken by the Respondents that

reconstructed tenements would be allotted only to original tenants/occupants and not to any other person to whom the tenants/occupants have alienated or inducted third persons in respect thereof. I say that within a period of 4 weeks, the entire exercise pertaining to the scrutiny of persons in the transit accommodation would be conducted by the concerned officer in charge of transit camps that is, the office of the Deputy Chief Officer (Transit Camps). In the event if any person other than the original tenant/occupant is found staying thereat, then provisions of Section-66 of the MHAD Act, 1976 would be invoked against such persons as well as original tenant/occupant who has alienated or inducted third party in respect thereof. Subject to the outcome of the said proceedings, if such tenant/occupant is successful in drawal of lots, then, the same would not be allotted to him.”

4] It could thus be seen that a specific stand is taken by the Respondents authorities that they would undertake the scrutiny of entire documents and the allotment shall be only to the persons found to be entitled. It is further stated that if any person other than the original tenant/occupant is found staying, then provisions of Section 66 of the MHADA Act, 1976 would be invoked.

5] Learned counsel for the Respondent – MHADA on instructions of officer who is personally present in the Court makes a specific statement that all the persons who were evicted from the dilapidated building will be provided permanent alternate

accommodation either in the same building or in a building in nearby vicinity. In that view of the matter, we do not find that any grievance of the Petitioners survives. The Writ Petition stands disposed of.

6] Needless to state that interim protection granted earlier shall stand vacated.

[DAMA SESHADRI NAIDU, J.]

[B. R. GAVAI, J.]