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

WRIT PETITION (LODGING) NO.3021 OF 2019

Chittaranjan U. Chheda	...Petitioner
V/s.	
Mumbai Housing & Area Development Board & Ors.	...Respondents

Mr.Satyakumar M. Shettigar for the Petitioner.

Mr.Prabhakar M. Jadhav i/b Mr.V.P. Sawant for the Respondent Nos.1 to 4.

Mr.Yadunath Chaudhari with Mr.Chinmaya Acharya for the Respondent No.5.

CORAM : R.D. DHANUKA, J.
DATE : 22ND OCTOBER, 2019.

P.C. :-

1. The papers are allowed to be produced at 3:00 p.m.
2. By this petition the petitioner has impugned the notice / order passed under section 95-A of the Maharashtra Housing Area & Development Act, 1976 (for short "MHADA Act, 1976") calling upon the petitioner to vacate the premises in question.
3. It is the case of the petitioner that the petitioner is not only entitled to the area mentioned in the Certified List of Tenants but also in respect of the Loft which is alleged to be in possession of the petitioner for last several years.

4. Under section 95-A of the MHADA Act, 1976, the authority could not go into the title dispute in respect of the loft alleged to be in possession of the petitioner.

5. Mr.Chaudhari, learned counsel appearing for the respondent no.5 on instructions states that whatever amount of transit rent is being paid to others in respect of identical premises which is mentioned in the Certified List of Tenants would be paid to the petitioner. He further states that the Agreement for Permanent Alternate Accommodation would be executed by his client in favour of the petitioner within two days from today. Statement made by the learned counsel for the respondent no.5 is accepted as and by way of undertaking to this Court.

6. I am not inclined to interfere with the impugned notice / order dated 9th October, 2019 under section 95-A of the MHADA Act, 1976. The Learned counsel appearing for the petitioner on instruction undertakes before this Court that his client would hand over vacant possession of the premises in his possession to the respondent no.5 within four weeks from today. Undertaking rendered by the learned counsel for the petitioner is accepted by this Court. It is made clear that if the petitioner does not hand over vacant possession of the premises in his possession to the respondent no.5 within four weeks from today, the respondent no.5 would be at liberty to take forcible possession of the premises from the petitioner or anybody else found in possession of the premises and if necessary with the help of

police.

7. If any suit or any other proceedings is filed by the petitioner in respect of the disputed area and additional transit rent, the same shall be decided on its own merit. It is made clear that the transit rent payable by the respondent no.5 to the petitioner would commence only upon the petitioner handing over possession of the premises to the respondent no.5.

8. The writ petition is dismissed subject to aforesaid clarification.

9. All the parties as well as the Authority to act on the authenticated copy of this order.

(R.D. DHANUKA, J.)