

Uday S. Jagtap

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

WRIT PETITION NO. 1056 OF 2019

Smt. Kulsum Abdul Gaffar .. Petitioner

Vs.

The Maharashtra Housing and Area
Development Board and Ors. .. Respondents

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Mr. Indraprakash Tripathi i/b Usama Memon for the petitioner
Mr. P.G. Lad for respondent – MHADA
Mr. Amit Shastri, AGP for respondent – State

**CORAM : K.K. TATED &
PRITHVIRAJ K. CHAVAN, J.J.**

DATED : 12th AUGUST, 2021

P.C.

1. Heard learned Counsel for the parties.
2. Rule. Rule is made returnable forthwith.
3. By this petition under Article 226 of the Constitution of India, the petitioner is seeking directions against respondent – MHADA to allot the petitioner a permanent alternate accommodation in lieu of the old premises admeasuring 120 sq.ft. or thereabout and hand over possession thereof to the petitioner within a particular time.

4. The learned Counsel for the petitioner submits that though the petitioner made an Application dated 12th February, 2014 to the respondent – MHADA for allotment of new tenement in newly reconstructed building in lieu of old room no.7, 1st floor, 1st Kamathipura, 14th Lane, Mumbai 400 008, they failed and neglected to do so. Hence, she filed the present petition.
5. The learned Counsel for the petitioner submits that as on today, the petitioner is staying in transit accommodation allotted by the respondent – MHADA. In support of his submission in respect of allotment of transit accommodation by the respondent – MHADA, he relies on letter dated 8th January, 1986 issued by the Deputy Chief Officer/RR, B.H. & A.D. Board, which is at Exh.A (page 33 of the petition). He also relies on letter dated 23rd March, 1987 issued by the Deputy Chief Officer/S.G., M.B.R.R.B. being Exh.B (page 34 of the petition).
6. The learned Counsel for the petitioner submits that the respondent – MHADA filed their affidavit-in-reply dated 22nd July, 2021. He submits that in paragraphs 8 and 11, they have specifically stated that they are ready and willing to consider the petitioner's application afresh, if the petitioner provides the documents to that effect. Paragraphs 8 and 11 of the said affidavit-in-reply read thus :-

“8. I say that the Respondents are ready and willing to decide the claim of the Petitioner for entitlement of transit accommodation freshly in time bound manner.

11. I say that if the Petitioner produced all the necessary documents, her claim for including her name in the Master List as an Occupants of old Tenement will be considered freshly or if she falls in 4 corners of the said GR the same will be considered by these Respondents.”

7. Mr. Tripathi, the learned Counsel appearing on behalf of the petitioner submits that in the interest of justice, this Hon'ble Court be pleased to direct the respondents to decide the petitioner's application dated 12th February, 2014 (Exh.I page 43) on its own merits. He further submits that the petitioner may be permitted to file additional documents and submissions so that the respondent – MHADA can decide their application immediately.
8. At this stage, Mr. Lad, the learned Counsel appearing on behalf of respondent – MHADA submits that if the petitioner submits additional documents as well as submissions within a period of two weeks, they will decide their application within two months after getting all the documents. Statement is accepted.
9. In view of the above, the following order is passed :-

ORDER

(i) The respondent – MHADA is directed to decide the petitioner's Application dated 12th February, 2014 for allotment of new tenement in the newly reconstructed building in lieu of old Room No.7, 1st Floor, 1st Kamathipura, 14th Lane, Mumbai 400 008 on its own merits within a period of two months from the date of submission of additional documents and submissions, if any, with the respondent - MHADA.

(ii) The petitioner is permitted to file additional documents as well as submissions with the respondent – MHADA in support of her Application dated 12th February, 2014 within a period of two weeks from today.

(iii) Once the petitioner's Application dated 12th February, 2014 is decided by the respondent – MHADA, the respondent – MHADA is directed to communicate their decision to petitioner in writing immediately.

(iv) All the contentions of the respective parties are kept open.

(v) Parties to act on an authenticated copy of this order.

(vii) The writ petition is disposed of in the aforesaid terms.

(viii) No order as to costs.

(PRITHVIRAJ K. CHAVAN, J.)

(K.K. TATED, J.)