

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.1425 OF 2021**

M/s. Darshan Sky High Constructions LLP]

and another] Petitioners

Vs.

The Mumbai Buildings Repair and]

Reconstruction Board and others.] Respondents

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Mr. Yadunath Chaudhari a/w Vijaya Ingule, Rupesh Nandhare i/b Sean Wassodew, for Petitioners.

Ms. Sharmila Deshmukh, for Respondents No.1 to 3.

Mr. S.B. Gore, A.G.P, for Respondent-State.

Mr. Mangesh Chavan, for Respondents No.6 to 28 except Respondents No.5, 9 and 18.

Mr. Siddharth Ingule, for Respondents No.5, 9 and 18.

Mr. Deepak T. Raut, for Applicant in Interim Application (L) No.15365 of 2021.

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

**DATE : 27th JULY, 2021.
[Through Video Conferencing]**

P.C.

1. Heard learned Counsel for the parties.
2. The main prayer of the petitioners is to direct respondents No.1 to 3 to take appropriate action against some of the occupants

under section 95-A of the Maharashtra Housing and Area Development Act, 1976 for forcibly evicting respondents No.5 to 28 from their tenements.

3. This Court heard both the sides at length on 17th July, 2021 and recorded submissions of both the parties. When this Court decided to allow the petition directing MHADA to take action under section 95-A of the said Act, at that time learned Counsel appearing on behalf of respondents No.6,7,8,10 to 17 and 19 to 28 requested some time to take instructions whether his clients are ready and willing to hand over possession to the developer without prejudice to their rights and contentions in the present matter. Today, learned Counsel appearing for these respondents submits that it is not possible for them to hand over possession because of several grievances.

4. Considering the order dated 17th July, 2021 passed by this Court, we are satisfied that respondents No.1 to 3 are required to be directed to follow the procedure as prescribed under section 95-A of the MHADA Act for forcibly evicting some of the occupants who are not ready and willing to hand over possession of tenements to the developer. Hence, the following order is passed;

: ORDER :

[a] Respondents No.1 to 3-MHADA are directed to take appropriate action as early as possible against the respondents-occupants who are not ready and willing to hand over possession of their tenements to the

Developer under section 95-A of the MHADA Act after following due procedure of law.

[b] Writ Petition stands disposed of.

[c] No order as to costs.

[d] At this stage, Mr. Chavan, learned Counsel appearing for respondents No.6,7,8, 10 to 17 and 19 to 28 prays for stay of this order. Prayer for stay is rejected because majority of the occupants have already vacated the premises.

[PRITHVIRAJ K. CHAVAN, J.]

[K. K. TATED, J.]