

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 399 OF 2022

Vasant Ganpat Ingawale }
aged about 65 years }
presently residing at 18/179, }
Sankraman Shibir Jay Maharashtra }
Nagar, Tata Power House, Near }
Magathane Depot, Borivali (East), }
Mumbai-66 } ...Petitioner

V/s.

1. The Maharashtra Housing and }
Area Development Authority, having }
its office at Grih Nirman Bhavan, }
Bandra (E), Mumbai-51. }
}
2. The Mumbai Repairs and }
Reconstruction Board (A unit of }
MHADA) having its office at Grih }
Nirman Bhavan, Bandra (E), }
Mumbai-400 051. } ... Respondents

Mr. Induprakash Tripathi a/w. Bhagyashri Gawas I.by C.K. Tripathi for
petitioner.

Ms. Manisha Jagtap for respondent nos. 1 to 3-MHADA.

CORAM : SUNIL B. SHUKRE &
FIRDOSH P. POONIWALLA, JJ

DATE : 30th AUGUST 2023.

ORAL JUDGMENT : (PER SUNIL B. SHUKRE, J)

1. Rule. Rule made returnable forthwith. Heard finally by consent of learned counsel for the respective parties.

2. We find that the decision that Master List Committee has taken in this case so as to reject the plea of the petitioner to succeed to the estate of the deceased paternal aunt, is in ignorance of vital piece of evidence in the nature of report of the Executive Engineer which speaks about existence of earlier Gala No. 12/B in the name of Smt. PB. Sawant. We further find that the said decision erroneously gives much importance to the electoral roll of 1972. In fact, any electoral roll giving names of the eligible voters cannot be used as a good piece of evidence for determining the property rights of any persons, but this position of law seems to have been lost sight of by Master List Committee while taking its decision in the matter, which is impugned herein. Similar mistake appears to have been committed by the Appellate Authority i.e. Chief Engineer of MHADA. Therefore, both these decisions cannot be sustained in the eye of law.

3. Besides, we also find that both these authorities have not appropriately considered the effect of letters of administration issued in favour of the petitioner from the view point of entitlement of the petitioner to succeed to the estate of his deceased paternal aunt, which

factor would also have been taken into account appropriately by these authorities, while deciding afresh the claim of the petitioner.

4. In view of above, we are inclined to partly allow this petition, and we do so.

5. The impugned decisions of Master List Committee and the Appellate Authority i.e Chief Engineer (2) are hereby quashed and set aside. The matter is remanded back to Master List Committee for fresh consideration of the claim of the petitioner in accordance with law. In taking a fresh decision, the Master List Committee shall also take into consideration the observations made hereinabove. The decision may be rendered as early as possible preferably within four weeks from the date of the order.

6. Rule is made absolute in the above terms.

7. Writ Petition is disposed of.

(FIRDOSH P. POONIWALLA, J)

(SUNIL B. SHUKRE, J)