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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 4951 OF 2022**

Suresh s/o Motilal Saraogi ...Petitioner
Versus
The State of Maharashtra & Ors ...Respondents

Mr AM Saraogi, *with Anand Mishra, for the Petitioner.*
Mr Karan Rasane, *i/b Manisha Jagtap, for Respondent-MHADA.*
Mr LT Satelkar, *AGP, for the Respondent-State.*

**CORAM G.S. Patel &
 Neela Gokhale, JJ.**
DATED: 27th March 2023

PC:-

1. The Petition is thoroughly misconceived.

2. The Petitioner claims that his father was a tenant of residential premises in a building called Dayanand Kutir, 23A, Doongarshi Road, Malabar Hill, Mumbai 400 006. The Petitioner's father passed away and according to the Petitioner he inherited the tenancy. That may be contentious. Respondents Nos. 4 and 5 are the owners of the property. The only prayer in the Petition is at pages 10 and 11 and it reads thus:

“(a) that this Hon’ble Court be pleased to issue an appropriate writ, order and directions directing the

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Respondent No. 2 to forthwith acquire the property being property known as Dayanand Kutir situated at 23A, Doongarshi Road, Mumbai 400 006, and thereafter reconstruct the same and to accommodate the existing tenants including the petitioner who had been residing in the said building before demolition and on such terms as this Hon'ble Court may deem fit and proper in the matter.”

3. Ms Jagtap for MHADA is unavailable, but we see no reason to adjourn the matter on that ground. For, there is no doubt that the MHADA Act has provisions for the compulsory acquisition by MHADA of properties under certain conditions. It is difficult to countenance a prayer, however, where a tenant whose rights may indeed be contentious seeks a mandamus from a Writ Court *compelling* MHADA to acquire the property. There is no such legally enforceable right vested in a tenant. Whether to acquire a property is entirely within the administrative and executive discretion of MHADA. None can command an executive or administrative body to exercise its discretion in a particular manner. But that is precisely what the prayers seeks.

4. The Petition is therefore without substance. It is rejected. There will be no order as to costs.

5. All other remedies if any available to the Petitioner are expressly kept open.

(Neela Gokhale, J)

(G. S. Patel, J)