

Sumedh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 12887 OF 2018

Shakar Maharishi Awade Dada Shakari ...Petitioner
Bhadekaru/Malki Grah Nirman Society Ltd

Versus

The State of Maharashtra & Ors ...Respondents

Mr Abhijit M Adagule, *for the Petitioner.*

Mr AA Alaspurkar, AGP, *for the Respondent-State.*

Mr PG Lad, *with Sayli Apte & Shreya Shah, for the Respondent-*
MHADA.

CORAM: M.S. Sonak &
Kamal Khata, JJ
DATED: 2nd September 2024

PC:-

1. Heard learned counsel for the parties.
2. Mr Adagule, learned counsel for the Petitioner, solemnly states that Rs. 22,58,795 /—has already been deposited with the MHADA in pursuance of this Court's order dated 8 April 2019. He also tenders a chart indicating the deposit dates and receipt numbers.

3. The chart tendered by Mr Adagule refers to Rs. 20,46,501/—. However, Mr Adagule states that the balance amount has also been paid to the MHADA.

4. The central relief in this Petition is to direct the MHADA to decide the Petitioner's representation dated 28/08/2013. This Court, by its order dated 8 April 2019, restrained the MHADA from recovering any further amounts on the condition that the Petitioner deposit Rs.22,58,795/—. Learned counsel for the Petitioner states that this amount has been duly deposited with the MHADA.

5. Accordingly, we direct MHADA to hear the Petitioner and dispose of representation dated 28/08/2013 following the law and on its own merits as expeditiously as possible and within four weeks from today, i.e., on or before 30 September 2024.

6. Mr Lad, learned counsel for MHADA, submits that this Court should fix a date for the Petitioner's appearance before the Executive Engineer of MHADA. He suggests that the Petitioner or their representatives should appear before the Chief Officer (CO) of MHADA, Pune, on 10 September 2024 at 11.00 am. On this date, the CO will give a hearing and then dispose of the Petitioner's representation by 30 September 2024. The CO must pass a reasoned order and communicate it to the Petitioner.

7. Mr Adagule pointed out that the representation dated 28 August 2013 was addressed to the State; however, the same should

now be treated as a representation to the MHADA. This request is accepted, and MHADA should treat the representation as it was made to MHADA. When the Petitioner/their representatives appear before the CO of Pune on 10 September 2024, they are granted liberty to make a fresh representation to the MHADA, which MHADA should dispose of along with the representation dated 28 August 2013 following the law and on its own merits.

8. Until the representation is decided and, in case the decision is adverse to the Petitioner, for a period of two weeks from the date of its communication, the MHADA should not effect any further recoveries, particularly now that the Petitioner has deposited Rs. 22,58,795/—with the MHADA.

9. Learned counsel for the Petitioner and Mr Lad for the MHADA referred us to the meeting minutes held on 28 March 2007 in the office of the Hon'ble Minister of State (Housing). The minutes indicate that some stay is granted on recoveries.

10. Mr Adagule, learned counsel for the Petitioner, admitted that this stay was not granted in any appeal or by the State Government/Minster in its capacity as an appellate or quasi-judicial authority. Mr Lad stated that the Society bears the name of the father of the local MLA who was present for the meeting on 28 March 2007.

11. In many statutes, the appeals are provided against orders made by authorities like MHADA, municipalities, etc, to the State

Government. In such appeals, the State Government, acting through its ministers, etc., can always grant interim relief. However, there is no question of granting such stay orders based upon mere representations and without any statutory backing. Besides, we note that the stay order so granted is of some indefinite duration, thereby indefinitely disabling the MHADA from recovering the purchase price for the tenements allotted to the members of the Petitioner Society. This cannot be countenanced. Accordingly, we clarify that the MHADA would not be bound by such a stay order issued in the meeting on 28 March 2007.

12. The Petition is disposed of in the above terms without any orders for costs. All concerned to act on an authenticated copy of this order.

(Kamal Khata, J)

(M.S. Sonak, J)