

Wadhwa

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8616 OF 2023

Jayashree Kantikumar Engineer ...Petitioner
Versus
Chief Officer & Vice President, MHADA & Anr ...Respondents

Mr DH Sharma (online), *with Pradyumna D Sharma, Randhir Kumar N Mandal, Bhavika S Hodar, for the Petitioner.*
Ms Sayli Apte, *i/b Manisha Jagtap, for the Respondent-MHADA.*
Mr Mayur Khandeparkar, *with Sharad Wakchoure, for Respondent No 2.*

CORAM G.S. Patel &
Kamal Khata, JJ.
DATED: 29th January 2024

PC:-

1. We passed an order on 25th January 2024. The matter is kept today to provide the bank details of the Petitioner, Jayashree Kantikumar Engineer. These are now made available. Her Account is No 07400100013887 at the Bank of Baroda, Navyug College, Surat Branch. The IFSC code is BARB0RANSUR. The Account seems to be in her name jointly with Hitesh Kantikumar Engineer, one of her sons. As we have noted, this is a potential source of difficulty.

2. The Receiver will proceed to execute the standard form PAAA but will do so acting only on behalf of Jayashree, the Petitioner. The reason is, as we have previously noted, that there are two other reports that confirm that Jayashree alone is entitled to a PAAA in her sole name and to possession of the readied flat. The Court Receiver will also take the necessary steps when required to admit execution and for registration of the document.

3. There is an additional area of about 800 or 900 sq ft that is being provided to Jayashree in the redeveloped flat. Although the initial amount in lieu of the original holding is exempt from stamp duty, the additional area will undoubtedly attract stamp duty. Our order is not to be construed as exempting Jayashree from the liability to pay the differential stamp duty or such amount as maybe adjudicated by the authority on the additional area that is being provided to her under the PAAA.

4. Since there is this issue of stamp duty, in order to further facilitate and accommodate the Petitioner we direct that the entire accumulated amount of arrears of transit rent as reflected in our previous order will first be paid by the developer to the Court Receiver. From this amount the Court Receiver will make payment of the necessary stamp duty or the adjudicated amount and will then remit the balance to Jayashree's account as noted above. We take the liberty of making a further direction that if either of the sons have any grievance, an application must be made by way of a proper Interim Application in this Court in this proceeding.

5. There is nothing that we can do further regarding the balance transit rent if this is the account that the Petitioner has given us. The remaining transit rent is to be moved to the account the details of which are provided today and set out above. It is for the Petitioner to ensure that all operations on this account are under her control or with her consent. Neither the developer nor the Court can take responsibility for what happens to the funds once they are credited to this Account. With this, our order of 25th January 2024 can be given full effect to.

6. Only two further clarifications remain. The developer represented by Mr Khandeparkar is obviously not answerable to or liable for any claims that may be made by Jayashree's two sons. We say this because it is Jayashree who, in her prayers in this Writ Petition, insists that payment be made to her alone and that the Permanent Alternate Accommodation Agreement ("PAAA") be in her sole name and that possession be given to her when the structure is complete with an Occupation Certificate ("OC"). We have accepted this. There has been no opposition from the developer in this regard. There is therefore no question of either of the sons making an independent or separate claim in this regard.

7. The Petition is disposed of in these terms.

(Kamal Khata, J)

(G. S. Patel, J)