

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7829 OF 2024

Seema Ramesh More and Ors.

...Petitioners

Versus

Estate Manager – Bandra Division (Transit
Camp), Mumbai Building Repair and
Reconstruction Board and Ors.

...Respondents

Mr. Altaf Khan a/w Shamsher Ahmed and Supriya i/b Ms. Pragya
Mishra for the Petitioners.

Dr. Uday Warunjikar for Respondent Nos. 1 to 3/MHADA.

Mr. Kaustubh Patil for Respondent No.4.

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CORAM : M.M. SATHAYE, J.

DATE : 29 MAY 2024

(VACATION COURT)

P.C. :

1. Heard the learned counsel for the Petitioners, learned counsel for the Respondent Nos. 1 to 3 - MHADA and learned counsel for Respondent No.4 - Developer. The matter is urgently moved in the vacation owing to impugned order/notice being given on 14.05.2024.

2. By this petition, the Petitioners 21 in number, who are occupants of building No.10, which is a transit camp building, are challenging the impugned order/notice dated 14.05.2024 passed by

the Maharashtra Housing and Development Authority('MHADA'). The Petitioners also pray for holding that there is non compliance with direction dated 08.05.2023 and letter dated 13.09.2023. Perusal of the direction dated 08.05.2023 (page 95 of the petition) shows that the concerned Authority is directed to carryout certification and decide eligibility of the occupants residing in the transit camp tenements situated at Nirmal Nagar, Bandra.

3. Learned counsel for the Petitioners states that the said Authority is not conducting this inquiry of eligibility for the Petitioners.

4. Learned counsel for the MHADA points out that Government Resolution under which said inquiry is contemplated is stayed by the order of this Court dated 20.10.2020 passed in Public Interest Litigation (L) No.1 of 2020 with Interim Application No. 4540 of 2020 and the restraint under the said order is in force. In that view of the matter, at this stage, insistence on the said direction cannot be entertained.

5. It is pointed out to the Court that present Petitioners had challenged an earlier notice dated 25.10.2023 issued by MHADA by filing Civil Suit in the Bombay City Civil Court at Dindoshi wherein after hearing all concerned, including the Petitioners, by order dated 14.12.2023, ad-interim relief is refused. Learned Counsel for MHADA submits that although an appeal from order filed by the

Petitioners against the said order is pending, there are no protective orders in favour of the Petitioners. This position is not disputed by the Petitioners. If not anything else, this shows that prior notices were issued to the Petitioners before issuing the present impugned notices.

6. Additionally, learned counsel for the Respondent/MHADA submits that the concerned Development scheme includes 16 buildings, out of which 14 buildings are already demolished and building occupied by present Petitioners is blocking the process of redevelopment.

7. The impugned order/notice refers to the earlier notices given. However, since no positive response was received from the Petitioners, a final 7 days notice is given.

8. Learned counsel for the Respondent/Developer, on instructions, stated that under the scheme he is paying transit rent to 408 occupants and he is ready to pay the same to the Petitioners also in case they vacate the tenements by executing affidavits as required under applicable rules.

9. In view of the aforesaid facts and circumstances, I do not find that this is a fit case for granting urgent ad-interim relief. The Petition, as filed can be heard on merits by the regular Court. Stand over 24.06.2024.

10. At this stage, the learned counsel for the Petitioners, relying on the order dated 21.09.2021 in Writ Petition (L) No. 20424 of 2021, submits that some of the occupants in that matter were accepted by MHADA to be entitled even before finalising the category. It is common ground before the Court that this order was passed in some other development scheme and not present Nirmal Nagar Development Scheme of MHADA. In light thereof, at this stage, the said order will not be helpful to the Petitioners.

11. Learned Counsel for the Petitioner now insists that the Court may deal with his further contention that the Petitioners are being discriminated at the hands of Respondent/MHADA, while some other occupants are treated differently. On a specific query by the Court as to whether any such specific case of discrimination is made out in the petition, so that Respondent/MHADA can meet the case, the learned counsel for the Petitioners was unable to point out any such specific contention.

12. It is observed that in Writ Petitions , there is increasing tendency of the Petitioners to make bold statements across the bar irrespective of whether they are made in the petition or not. This results in wasting Court's valuable time and also the time of other waiting litigants whose cases might be more urgent than such Petitioners. Such practice must be deprecated.

13. Learned counsel for the Petitioners, at this stage, seeks stay of

this order for period of 2 weeks since the Petitioners propose to carry the matter to the Hon'ble Supreme Court. The operation of this order is stayed for a period of two weeks. However it is clarified that there is no ad-interim order or protection granted in this petition.

14. All concerned to act on duly authenticated/digitally signed copy of this order.

(M.M. SATHAYE, J.)