

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 10090 OF 2024

Vijay Bapu Bhor Since Deceased Through
L.H. Ratna Vijay Bhor And Ors. ...Petitioners

Versus

The State of Maharashtra Through
The Public Prosecutor And Ors. ...Respondents

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Mr.Vishal G. Saudi a/w Mr. Tejas Pawar, for the Petitioners.

Ms.Madhavi Ayyapan h/f Talekar and Associates for Respondent
No.3 (MHADA) through V.C.

Mr.Elvis Netto for Respondent Nos. 4(a) to (c).

Ms.Snehal S. Jadhav, A.G.P for the Respondent – State.

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CORAM : AVINASH G. GHAROTE, J.

DATE : 24th JULY, 2024

P.C.:

1. The petition questions the entitlement of the legal heirs of the respondent No.4, Sunita Kisan Hande, who has since passed away, to occupy Room No.10, Second Floor, Building No.120, Ghule Mansion, Mhatarpakadi Road, Mazgaon, Mumbai. It is the contention, that the original owner of the Room No.10 was one Yashodabai, who is claimed to have transferred the occupancy in

favour of Vijay Bhor, by way of an Affidavit dated 06.08.1999. Since Smt. Sunita Hande also claimed occupancy in respect of Room No.10, proceedings were initiated before the Board, which by an order dated 07.05.2018, (Page-102) directed the name of Sunita Hande, be also included in the list of occupants. Appeal there against to the Appellate Authority resulted in an order dated 02.01.2020 (Page-106) directing the deletion of the name of Sunita Hande from the list of occupants. A further appeal before the Additional Chief Secretary, came to be allowed, by the order dated 05.04.2024 directing the inclusion of the name of Sunita Hande in the list of occupants.

2. It is contended by the learned counsel for the petitioners, who are the legal heirs, of Vijay Bhor, that Sunita Hande, was not entitled to be included in the list of occupants, by MHADA, as according to him, this is a pure and simple tenancy dispute between two persons, claiming occupancy in respect of Room No.10, from Yashodabai, who is the original owner of Room No.10. In order to substantiate this contention, it is necessary to examine, the manner in which Yashodabai is claimed to have acquired right to Room No.10.

3. Learned counsels for the parties to place on record appropriate documents indicating the mode of acquisition by Yashodabai. In case it is found that Yashodabai was an allottee of Room No.10 by MHADA, the Authority constituted under the MHADA Act would have jurisdiction to decide on a claim of occupancy and in case it is not so, the remedy would lie elsewhere. List the matter on 30th July, 2024.

(AVINASH G. GHAROTE, J.)