

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

**APPEAL FROM ORDER NO. 409 OF 2024
WITH
INTERIM APPLICATION NO. 9207 OF 2024**

Smt. Swapnali Kamlesh ShewaleAppellant/Applicant
V/S
Maharashtra Housing And Area
Development Authority & Ors.Respondents

Mr. Pradip J. Thorat a/w. Mr. Janardan Yadav for the Appellant
Mr. Satyajee Dighe for the Respondents Nos. 1 to 3

CORAM : M. M. SATHAYE, J.

DATED : 18th DECEMBER 2024

PC.:

1. Heard learned Counsel for the Appellant and learned Counsel for the Respondent No. 1 to 3-MHADA.
2. The Appeal is filed challenging refusal of the ad-interim relief under the impugned order dated 28/02/2024 passed by the City Civil Court, Greater Mumbai in Draft Notice of Motion in S.C. Suit No. 721 of 2024.
3. Learned Counsel for the Appellant claims possession of a MHADA transit accommodation on the basis of chain of transactions from Defendant Nos. 4 to 5, 5 to 6, 6 to 7 and finally from Defendant No. 7 to the Appellant/Plaintiff. It is asserted that even today, the Appellant is in possession of the transit accommodation and issuance of notices dated 01/12/2023 and 19/12/2023 to the Appellant has led to filing of the subject

suit and motion.

4. Reliance is placed on a Government Resolution (GR) dated 13.09.2019 about the allotment and rehabilitation in respect of MHADA transit accommodations. The Appellant claims to fall under Category-B, who are such persons who have got either Power of Attorney (POA) or similar authority document from the original allottee/resident of the transit accommodation.

5. Perusal of the said GR show that in respect of such category of persons, the policy of the Respondent – MHADA is that even if the transactions such as POA or other authority is irregular or illegal, considering that it is coupled with transfer of monetary consideration, the same should be considered sympathetically and allotment/transfer should be made after taking construction cost and infrastructure cost and on payment of necessary stamp duty and other government charges.

6. Perusal of the impugned order shows that ad-interim is refused primarily on the ground that MHADA has no privity of contract between the Appellant and MHADA.

7. Learned Counsel for the Appellant asserts that chain of documents linking the Appellant to the suit property (transit accommodation) is placed on record at page 73 to 147 of appeal paperbook.

8. Learned Counsel for the MHADA seeks adjournment for taking necessary instructions about the subject matter transit accommodate and about whether the GR relied upon by the Appellant is challenged in any Court.

9. Issue notice to the Respondents, returnable on 22/01/2025. Learned Counsel for the Respondent Nos. 1 to 3 / MHADA waives service.

10. Till the next date, the Respondent - MHADA is directed not to take any action of eviction of the Applicant from the transit accommodation viz. Tenement No. 15-D/303, Sahakar Nagar Transit Camp, Chembur, Mumbai – 400074.

(M. M. SATHAYE, J.)