

Ashwini

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION NO. 460 OF 2024
IN
WRIT PETITION NO. 3509 OF 2019

Milind D Narvekar	...Applicant
<i>In the matter between</i>	
Milind D Narvekar	...Petitioner
<i>Versus</i>	
State of Maharashtra & Ors	...Respondents

Mr Mayur Khandeparkar, with Vikramjit Grewal, i/b DA Sakhalkar, for the Applicant.
Mr PG Lad, with Sayli Apte & Shreya Shah, for the Respondent-MHADA.
Mr Abhay L Patki, Addl. GP, for the Respondent-State.
Mr Ranjeet Deshmukh, City Survey Officer, Goregaon, is present.
Mr Ashok Hajare, Desk Officer, Revenue and Forest Department, Mantralaya, is present.

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**CORAM G.S. Patel &
 Kamal Khata, JJ.**
DATED: 21st February 2024

PC:-

1. Mr Lad tenders an Affidavit dated 15th February 2024. It is affirmed by one Nilesh Madame, the Executive Engineer of

Goregaon Division. The original Affidavit is to be filed in the Registry.

2. The Affidavit says that it is in response to the Interim Application. Paragraph 3 says that the Government allotted land admeasuring 2769.75 sq mts to Maharashtra Housing and Area Development Authority (“MHADA”) by a letter of 18th September 2019 transferring this area from Survey No 29 (part) corresponding to CTS No 50A (part) at Village Pahadi, Goregaon to implement the special scheme for the Petitioner’s society. The direction to MHADA was to reserve certain tenements for High Court employees and allot these to the High Court employees by a lottery process. The question of reservation of additional 50% to MHADA was challenged in Writ Petition No 3509 of 2019 which we disposed of finally by our order and judgment dated 15th September 2023. That judgment has attained finality. We *inter alia* held that there is no question of disposal of any additional area or the allocation to MHADA.

3. This is summarised in paragraph 5 of the Affidavit where the submission is that the case of the Petitioner was that the Petitioner should be given the entire development potential of the entirety of 2769.75 sq mts. That was indeed our judgment. We also set aside the direction and decision to reserve 50% of the constructed tenements for MHADA. We directed that the entire development potential of 2769.75 sq mts was to be handed over to the Petitioner and no question of a lottery then would arise. We directed MHADA to

implement this scheme with full development potential through its contractor.

4. Paragraph 8 says that a scheme has been submitted for approval to the Government on 30th November 2023.

5. We clarify today that there is no question of the Government refusing approval to the scheme submitted by MHADA. The actual configuration of the building may be a different matter but that is all.

6. Then in paragraph 9 there is a reference to a letter dated 30th November 2023 from MHADA to the Collector, Mumbai Suburban District to earmark or demarcate 2769.75 sq mts from Survey No 29 (part) corresponding to CTS No 50 A (part). The Collector held a hearing on 28th December 2023 and measurement of the land was taken on 8th February 2024. A report is prepared along with the plan earmarking or demarcating this area of 2769.75 sq mts. A copy of the report is at Exhibit "C". Paragraph 11 says that the area of 2769.75 sq mts will be mutated in the name of MHADA in the revenue records. Then paragraph 12 says a measurement has been carried out.

7. On the plan at page 82, we have confirmed from Mr Patki that notice was given to the neighbouring plot holders. He confirms that this was done. None have objected. The demarcated portion is shown in a blue boundary line at page 82.

8. Mr Patki states on instructions and confirms that the demarcated plot is now entirely within the Goregaon Division. Mr Patki also confirms that no objections were received from any of the adjacent plot owners.

9. Mr Khandeparkar for the Petitioner states that a proposal will now be submitted to MHADA within 10 days from today. MHADA will process this following the usual procedures but we once again make it clear that there is no question of any of this being subject to “approval” from the State Government. The reason we say that is that the State Government was before us when we disposed of the Petition and was fully heard through the learned Advocate General.

10. The Interim Application is disposed of in these terms. There will be no order as to costs.

(Kamal Khata, J)

(G. S. Patel, J)