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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.3552 OF 2024

Suvarna Shivsram Parte

...Petitioner

Versus

State of Maharashtra

...Respondent

Mr. Rohan Savant with Mr. Abhijit M. P. i/b. Mr. Sunil M. Kadam for
the Petitioner.

Ms. Anupama Pawar, AGP for Respondent No.1.

CORAM : R.I. CHAGLA J.
DATE : 7TH JANUARY, 2025.

ORDER :

1. Heard Mr. Rohan Savant learned Counsel appearing for
the Petitioner.

2. By this Petition, the Petitioner is seeking a Writ of
Certiorari calling upon the records and proceedings from the
Respondent Nos.2 to 5 and after verifying and examining the
proceedings direct Respondent Nos.2 to 4 to issue allotment
forthwith to the Petitioner in respect of Room No.B-1/501 and
consequential relief of quashing and setting aside the impugned
Order dated 24th May, 2022 annexed at Exhibit 'E' to the Petition.

3. Mr. Rohan Savant, learned Counsel for the Petitioners has taken this Court through the relevant documents including the allotment of original tenement to the Petitioner and for which there was no objection on the part of the Respondent No.5. He has in this context placed reliance upon the letter dated 1st April, 2004 addressed by the Estate Manager, Zone – 2, MMRDA to the Petitioner wherein the Petitioner had been allotted the original tenement for the consideration mentioned therein.

4. Mr. Savant has then referred to the application for additional tenement which had been made by the Petitioner vide letter dated 13th August, 2009 to the Deputy Chief Executive Officer, Mumbai Building Repairs and Reconstruction Board, MHADA and wherein mention is made of the Suit which had been filed in the City Civil Court being Suit No.5813 of 2001 in which the original Plaintiff was the Petitioner's mother and upon her demise, her heirs which includes the Petitioner herein were brought on record in the Suit. The other heirs of the Petitioner's deceased mother namely Plaintiff No.4(a) to Plaintiff 4(c) had given their no objection for the Petitioner being allotted an additional flat. The no objection was enclosed with the said letter to that effect.

5. Mr. Savant has also referred to the prayers sought for in the Suit No.5813 of 2001 which includes prayer clause (c) which is for direction to allot the additional gala to the Plaintiffs including the Petitioner herein upon demise of the Petitioner's mother. The Suit was decree by the City Civil Court.

6. Mr. Savant has submitted that the impugned Order dated 24th May, 2022 passed by the MHADA, Mumbai Building Repairs and Reconstruction Board has entertained a complaint of Respondent No.5, one of the heirs of the Petitioner's deceased mother, objecting to the application of the Petitioner herein for additional tenement. By the impugned Order, the Petitioner herein has been directed to submit no objection of other heirs or Letter of Administration of this Court or City Civil Court prior the allotment of the additional tenement as there was the objection by Respondent No.5 herein to the allotment of the additional tenement to the Petitioner.

7. Mr. Savant has submitted that inspite of Petitioner having been allotted original tenement vide letter dated 1st April, 2004, the additional tenement to which Petitioner is entitled has been objected to by Respondent No.5. He has submitted that the

Petitioner herein is entitled to the additional tenement under the MHADA Scheme and that the impugned Order has erroneously entertained the objection of the Respondent No.5 and directed the Petitioner to obtain no objection from all heirs and / or on Letter of Administration of this Court.

8. Mr. Savant has accordingly sought for the stay of the impugned Order pending hearing of the Petition.

9. Considering that none appears for Respondent Nos.2 to 5, the Office shall issue notice to Respondent Nos.2 to 5 returnable on 28th January, 2025.

10. It is noted that Ms. Anupama Pawar, AGP appears for Respondent No.1.

11. Stand over to 28th January, 2025, high on board.

[R.I. CHAGLA J.]