

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1877 OF 2024

Mani Mulji Padaya (since deceased)
through his LRs.

... Petitioner

Versus

The State of Maharashtra & Ors.

... Respondents

Mr. Amey C. Sawant for the Petitioner.
Mr. Jagdish G. Aradwad (Reddy) for Respondent No.2-MHADA.
Smt. Nazia Sheikh, AGP for the Respondent-State.

CORAM : **M. S. KARNIK AND**
S. M. MODAK, JJ.
DATED : **16th MARCH, 2026.**

P.C. :

1. Heard learned counsel for the petitioner.
2. It is the grievance of the petitioner that the MHADA had illegally transferred the subject tenement in favour of respondent No.3, who is daughter-in-law of the original petitioner. The tenement in question, a flat admeasuring 305.91 sq. ft., situated at Kandivali, was allotted by the MHADA to the original allottee, who was the son of the original petitioner Mani Mulji Padaya. After the death of the original allottee, the said flat was transferred in favour of respondent No.3-Maithily Vasant Padaya, who is the wife of original allottee. Respondent No.4 is the 11 years old daughter of respondent No.3 and original allottee.

3. Mani Mulji Padaya, since deceased, was the mother of the original allottee who filed the present petition challenging the transfer of the subject tenement in favour of respondent No.3 i.e. her daughter-in-law, contending that the NoC of Mani Mulji Padaya, as required by the Circular of MHADA had not been obtained. During the pendency of this petition, Mani Mulji Padaya expired. Therefore, this petition is now being prosecuted through her son who was permitted to be brought on record.

Learned counsel for the petitioner submitted that there was some matrimonial disputes pending between respondent No.3-Maithily and her husband i.e. original allottee. In such view of the matter, it is the contention that the transfer made by the MHADA is completely contrary to the provisions of the law.

4. We are not inclined to interfere in this petition in the facts of this case. Mani Mulji Padaya has expired during the pendency of this petition. Though it is contended that the matrimonial proceedings were pending, there is nothing on record to indicate that there was closure of such matrimonial proceedings against the respondent No.3. Respondent No.4 is the 11 years old daughter of respondent No.3. In our opinion the allotment made should not be interfered with at the instance of the allottee's brother who cannot claim a right and moreover the allottee's daughter is residing in the premises who needs to be protected.

5. In respect of the petitioner, who is a brother of the original allottee and who is the legal heir of the original petitioner Mani Mulji Padaya, learned counsel candidly submitted that the petitioner is really now concerned with safeguard of the rights of respondent No.4 in the suit flat since she is a grand-daughter of Mani Mulji Padaya. The concern is genuine and the approach is fair. Such concern can be taken care of. None for respondent No.3 though duly served.

6. This petition can be disposed of with a direction to the MHADA that in the event the respondent No.3 proposes to dispose of or sell the suit flat, MHADA and its authorities shall take into consideration the interest of respondent No.4 before granting any NOC. Such order be communicated to respondent No.3. Necessary endorsement be made in records of MHADA so far as the suit flat is concerned.

7. With the aforesaid directions, the petition is disposed of.

(S. M. MODAK, J.)

(M. S. KARNIK, J.)