

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

**PUBLIC INTEREST LITIGATION NO. 9 OF 2016
ALONG WITH
NOTICE OF MOTION NO.503 OF 2017
WITH
NOTICE OF MOTION NO. 577 OF 2017
IN
PUBLIC INTEREST LITIGATION NO. 9 OF 2016**

Yuwaraj Sandipan Sawant ..Petitioner(s)
Versus
Mahalaxmi Co-op. Hsg. Soc. Ltd. And Ors. ...Respondent(s)

Ms.Gayatri Singh, Senior Advocate a/w Mr. Y.S.Sankpal for Petitioner.

Ms. Chaitrali Kondre i/by Navdeep Vora & Associates for respondent no. 64.

Mr. Mohit Jadhav, A.G.P for Respondent-State.

Ms.Trupti Puranik, for Corporation.

Mr.V.R.Kasle i/b Ms.Meena Sharma for Respondent No.1.

Mr.P.G.Lad a/w Ms.Sayli Apte for Respondent Nos.3 and 4.

Ms.P.U.Badadare, for Respondent Nos.9 to 11.

Mr.Kiran Gandhi i/b Little & Co. for Respondent No.17.

Ms.Salonee Kulkarni i/b Shardul Amarchand Mangaldas & Co., for Respondent No.21.

Mr. G.S. Godbole for respondent no. 28.

Ms. Prerna Lalchandani for respondent no. 63.

Mr.C.S.Sawant for Respondent No.24.

Mr.N.G.Raut a/w Ms.Sunita Serrao i/b P. Vas and Company for Respondent No.27 and applicant in N.M. No.503 of 2017.

Mr.S.K.Mali a/w Mr.V.L.Chaudhari for Respondent No.31.

Mr.Tejesh Dande a/w Mr.Bharat G. i/b Tejesh Dande and Associates, for Respondent No.39.

Mr.S.N.Karu for Respondent No.40.

Ms.Swati Sawant i/b S.K.Legal Associates for Respondent Nos.41, 54, 68 and 69.

Mr.Nikhil Wable a/w Ms.Shruti Barodia for Respondent Nos.43 and 46.

Ms. Snehal Dukhale i/b Mr.Mehul Shah for Respondent No.51 and

applicant in N.M. No.577 OF 2017.

Ms.Astha Thamankar for Respondent No.52.

Mr.Deepak Shukla i/b M/s.Vinod Mistry & Co., for Respondent No.53.

Mr. Ashish Khandelwal a/w Ms.Alisha Ningoo i/b Lodha Legal for Respondent No.55.

Mr.Chinmaya Acharya i/b Ms.P.R.Lalchandani for Respondent No.63.

Ms.Gauri Meshta i/b LJ Law for Respondent No.66.

Mr. B.G. Tangsali for respondent nos. 1 and 8.

**CORAM : SHANTANU KEMKAR &
M.S. KARNIK, JJ.
DATE : APRIL 10, 2018**

P.C.:

Heard learned counsel for the respondent no. 27 and 28 on Notice of Motion No. 503 of 2017 and Notice of Motion No. 577 of 2017 respectively. The Notice of Motions stand disposed of by taking on record the replies if filed within a week.

2. Learned counsel for respondent no.17, 28, and 31 submit that in the affidavit filed by the MHADA and the chart submitted by it, there is a contradiction about the statement about breach of condition. According to them when there is no condition, the question of waiver of the same would not arise. Be that as it may, let MHADA to make the position clear by filing the additional affidavit.

3. Learned counsel for respondent no.33 submits that the

description of respondent no. 33 has been wrongly shown. The correct description is "Maharashtra Police Corporation Housing Federation Limited". Petitioner's counsel is permitted to amend the petition to that effect within a week.

4. Learned counsel for respondent no. 33 submits that 209 tenements are ready for giving possession to MHADA but MHADA is not taking possession of the same, but has stated that the respondent no. 33 is exempted from handing over the possession. Learned counsel for respondent no. 33 submits that this affidavit appears to have been filed without appreciating the correct facts and legal position. He submits that the flats are ready and MHADA should take possession as expeditiously as possible. Learned counsel for MHADA submits that he will take appropriate instructions in this regard and correct the affidavit if the same is wrongly filed. He also submits that the possession of 209 tenements, if required to be taken, shall be taken as expeditiously as possible.

5. All the respondents are directed to serve copy of their reply affidavit to the counsel for the petitioner as also the counsel for the MHADA if not already supplied within two weeks.

6. Learned counsel for the MHADA to file additional affidavit in terms of what has been stated above.

7. The matter be listed on 25th June, 2018.
8. Petitioner is permitted to file rejoinder to the affidavits filed by the respondents within four weeks.

(M.S. KARNIK, J.)

(SHANTANU KEMKAR, J.)