

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO.12001 OF 2014

Shaikh Hameed Shaikh Rasheed

Petitioners

Versus

The State of Maharashtra & others

Respondents

Mr. AS Bajaj advocate for the petitioner  
Mrs. M.A. Deshpande, AGP for Respondents No.1 to 5  
Mr. Amit S. Deshpande advocate for respondent No.7  
Mr. S.V. Deshmukh advocate for respondent No.7

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CORAM : R.M. BORDE &  
V.K. JADHAV, JJ

Dated : 15th April, 2015.

PER COURT :-

1 The petition is presented by the petitioners, who are occupying the Government land and have constructed hutments over the property, for restraining the respondent authorities, from evicting them. A further relief is also claimed seeking their rehabilitation at an alternate site.

2 The petitioners have contended that, the Municipal Council has resolved to declare the area occupied by them as slum. The petitioners are apprehending their eviction at the instance of Municipal Council.

3 There is no evidence coming forth, as regards the area occupied by the petitioners having been notified as slum. The petitioners, as such, cannot claim any entitlement for being rehabilitated at an alternate site. The Division Bench of this Court in Writ Petition No.1359 of 2012 and 1399 of 2012, on 14.2.2012 granted liberty to the Municipal authorities to vacate the occupants occupying the land which is notified for public road in the development plan. The writ petition came to be disposed of. There were certain writ petitions presented along with No. 1359/2012 including some petitions presented by petitioners herein, claiming protection from eviction. While disposing of those petition, this Court granted liberty to the respondents to take steps in accordance with procedure prescribed under the Maharashtra Land Revenue Code 1966 and at the same time protection granted in favour of petitioners was continued for a period of six months from the date of order.

4 It is not a matter of dispute that, the petitioners have encroached upon the public property and the respondent Municipal Council proposes to construct a development plan road passing through the area, occupied by the petitioners. As such the Municipal Council is justified in taking steps to evict the petitioners.

5      Considering the fact that, the petitioners are occupying the area since long, we deem it appropriate to grant three months time to the petitioners to vacate the encroached area and hand over the vacant possession to the Municipal Council. In the event of failure of the petitioners to hand over vacant possession, it would be open for the Municipal Council to vacate the possession of the petitioners, by applying coercive means. The Municipal Council has also requested for grant of four months time for complying with the directions issued by this Court in respect of removal of encroachment in PIL No.72/2013, time is accordingly granted.

6      It would be open for the petitioners to make a request to the Municipal Council, for accommodating them, at an alternate site, in the event of declaration of area occupied by the petitioner, as slum, under the Maharashtra Slum Areas (Improvement, Clearance & Redevelopment) Act, 1971.

7      In view of the above, writ petition stands disposed of.

(V.K. JADHAV, J)

(R.M.BORDE, J)