

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.1450 OF 2015
WITH
WRIT PETITION NO.1452 OF 2015

Shri. Tukaram Sopanrao Mulik.

..Petitioner.

vs.

Slum Rehabilitation Authority, Pune and ors.

..Respondents.

Mr. Anand Singh for the Petitioner.

Mr.Siddharth Gadve i/by Vijay Killedar for Respondent No.1.

Ms. Aparna Vhatkar, AGP.for Respondent No.12.

CORAM : M.S. SONAK, J.

DATE : 10 FEBRUARY, 2015

PC:

Not on board. Upon production, taken on board.

2) Challenge in these petitions is to the order dated 18 December 2014 made by Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Tribunal granting in favour of respondent Nos. 3 to11 (original appellants) stay pending the decision in the appeal.

3) Learned Counsel for the petitioner submits that there is

also a direction to dispose of the appeal expeditiously and in any case within a period of three months from 22 January 2015. In such circumstances, learned Counsel for the petitioner submits that there was no reason to record the detailed findings and make observations for the purpose of grant of interim relief. The learned Counsel for the petitioner contends that the petitioner has no intention to take any coercive action during the pendency of the appeal.

4) Learned Counsel for the petitioner further submitted that main reason which prompted the Tribunal to grant stay is some earlier stay order granted by this Court. Learned Counsel pointed out that the stay order granted earlier by this Court is not upon the adjudication of the merits of the matter but the same was granted, as the Presiding Officer was not appointed to the Tribunal and in the meanwhile there was some necessity to grant some protection to the respondents.

5) In view of the statement of the petitioner that he has no intention to take any coercive action against the said respondents during the pendency and the final disposal of the appeal, it is true that there was no necessity to go into the details or to make any detail order at the stage of grant of interim relief. Besides, learned Counsel is right that the stay order granted by this Court was not upon the adjudication of the merits of the matter but more because the Tribunal

did not have a Presiding Officer. The respondents undoubtedly had right of an appeal and in order that such right is effectively availed, the interim order came to be made.

6) All these apart, it is settled position of law that any observations or findings recorded at the time of making interim order are only tentative and prima facie in nature. Same can never form basis for final decision of the appeal. At the stage of finally deciding appeal, the Tribunal shall therefore, look to merits and the law without being influenced by any observation which may have made while disposing of the application for interim relief.

7) With the aforesaid observations, this petition is disposed of. All contentions of the parties are kept open.

(M.S. SONAK, J.)