

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION (STAMP) NO.8633 OF 2015**

Smt. Susheela Mahadeo Katkar

.. Petitioner

Versus

State of Maharashtra and others

.. Respondents

Mr. A. S. Gawas, for the Petitioner.

Mrs. Gauri Rao, AGP for the Respondent Nos.1 & 2.

Mr. S. V. Masurkar, for the Respondent No.3.

CORAM : R.M. SAVANT, J.

DATE : 23rd JUNE, 2015

PC.

1. The Writ Jurisdiction of this Court is invoked against the order dated 17.03.2015 passed by the Additional Collector (Encroachment/Removal), Western Suburbs by which order the Appeal filed by the Petitioner against the order passed under Section 33 of the Slum Act came to be dismissed. The Petitioner is having his structure which is impeding construction of the building meant for the free sale component of the Slum Rehabilitation Scheme in question. The Petitioner is in occupation of structure being Shop No.1, 1/10C Jaywant Jeevan Chawl, C.K.P. Colony, Near Suvidyalaya School, Eksar Road, Borivali (W), Mumbai. The said structure admeasures 48 sq.ft., which fact is disputed by the Petitioner. The Petitioner is carrying on the business of watch repairing. The building wherein the free sale component of the SRA

Scheme is to be constructed has not been constructed in view of the structure of the present Petitioner and the structure of one other Person whose Petition has already been dismissed. With a view to see to it that the issue is amicably resolved between the Petitioner and the Respondent No.3 developer, the above Petition was adjourned from time to time. In fact draft terms were exchanged between the parties. However, it seems that an amicable resolution of the dispute is not possible in view of the pre-conditions that the Petitioner seeks to lay down in so far as his eviction from the site in question is concerned.

2. In terms of the SRA Scheme, the Petitioner would be entitled to a monthly compensation so that he can make temporary alternate arrangements till he is permanently rehabilitated in the permanent alternate accommodation. The Respondent No.3 has agreed to rehabilitate the Petitioner in the building comprising of the free sale component under the SRA Scheme, as the other eligible slum dwellers have already been accommodated in the building meant for rehabilitation. The Respondent No.3 also agrees to provide monthly compensation to the Petitioner so as to facilitate him making arrangement for temporary alternate accommodation till the building in question wherein he can be permanently rehabilitated is constructed. The monthly compensation would be in terms and having regard to the rental which would be

applicable for a comparable shop in the SRA Scheme. It is expected that both the parties adopt a reasonable approach in that regard.

3. In view of the fact that the Respondent No.3 is agreeable to pay the monthly compensation as also agreeable to provide the Petitioner permanent alternate accommodation on the saleable component of the SRA Scheme being completed, the challenge to the impugned orders passed under Section 33 and 38 directing the eviction of the Petitioner do not merit any interference at the hands of this Court in its Writ Jurisdiction under Article 227 of the Constitution of India. The orders are therefore required to be confirmed and are accordingly confirmed. The Petition is accordingly dismissed. However, on the Respondent No.3 offering the Petitioner the monthly compensation initially for 11 months which he can forward by way of a cheque within two weeks from date, the Petitioner is granted four weeks time to vacate the premises in question. The Respondent No.3 on the Petitioner vacating the premises in question would enter into an Agreement with the Petitioner in respect of the permanent alternate accommodation. If the amount of monthly compensation is provided to the Petitioner, as above, and the Petitioner fails to vacate the structure in question, the authorities would then be free to oust the Petitioner in accordance with law.

[R.M. SAVANT, J]