

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

WRIT PETITION NO.3021 OF 2013

[Mr. Laxman Savala Pawar and others .vs. Maharashtra Industrial Development Corporation, Mumbai
and others]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Ms. Mani Prakash i/b Gayatri Singh for the petitioners,
Mr. P.P. Chavan a/w Mr. Navdeep Vora a/w Mr. Ravindra Chite i/b Navdeep Vora and
Associates for respondent nos.1 and 2,
Mr. Vikas Mali, AGP for respondent nos.3, 4 (i) to 4 (iv),
Mr. Prashant Kamble i/b Mr. A.S. Rao for respondent no.6.

CORAM : NARESH H. PATIL &
S.B. SHUKRE, JJ.

DATE : AUGUST 11, 2015.

PC :

Heard.

2. The petitioners state that they are occupying the subject premises which are now under the control of Dombivali MIDC area since the year 1973. On 6.3.2013, the MIDC had issued eviction notices under the provisions of the Maharashtra Regional and Town Planning Act, 1966 ('MRTP Act' for short). On 13th of March, 2013 it is alleged that abruptly the MIDC authorities demolished six houses of the occupants.

3. Learned counsel appearing for the petitioners submit that the petitioners claimed protection under the state policy reflected in the Government Resolution issued

in the year 1995. The petitioners claimed protection under the Slum Rehabilitation Scheme. It is claimed that they are occupying the subject premises since the year 1973 and, therefore, the state authorities and MIDC shall take necessary steps to rehabilitate the petitioners. The petitioners belong to financially weaker section of society and they are living in slum area. The respondents shall take a sympathetic view, according to the learned counsel for the petitioners.

4. Learned counsel appearing for the MIDC disputes the status of the petitioners, as claimed by them. It is submitted that they are encroachers of the subject land which is allotted and is in possession of the MIDC. The subject land is to be developed in accordance with the sanctioned plan prepared by the MIDC. In the sanctioned scheme, the subject area was reserved for amenities. It is submitted that the petitioners are occupying the plot no.P2. Learned counsel submits that the MIDC authorities could hear the petitioners and pass appropriate orders in respect of their claim. Learned counsel submits that the MIDC requires the subject plot for its further development and the same is blocked since last several years due to occupation of the petitioners and the pendency of this petition.

5. The issue concerning the occupation of the subject land by the petitioners and the similarly situated persons is to be dealt with by an appropriate authority. The

petitioners claimed protection and benefit under the state policy reflected in the Government Resolution issued in the year 1995. It is submitted that such of the persons/occupants, who had encroached upon the Gairan land, were protected by the State. The contention of the petitioners is that the subject land was earlier Gairan land which was allotted to MIDC. The petitioners claim benefit of rehabilitation by the State in case the State asks them to vacate their occupation on the subject land.

6. In the facts and considering the pleadings, we are of the view that an independent authority is required to consider all the relevant issues. An appropriate decision is required to be taken, after hearing the affected parties, MIDC and the state representatives. We, therefore, pass following order :

(a) The petitioners would file a comprehensive representation addressed to the Collector, Thane, within four weeks from today,

(b) In case the Collector receives such representation, we direct the Collector, Thane to call for the relevant record, Government Resolution, state policy decision and after hearing the representatives of the petitioners, MIDC and the State, to take appropriate decision regarding the petitioners' occupation on the subject plot as also the claim for rehabilitation in accordance with the state policy.

(c) In case the Collector is satisfied that the

petitioners are to be rehabilitated, the Collector is entitled to forward the issue to competent authority, who is authorised to take necessary steps in respect of the rehabilitation.

(d) In case the Collector is of the opinion that the petitioners are required to be evicted from the said subject plot, then in that case, the respondents - MIDC shall not take any further steps for a period of four weeks from the date of communication of order of the Collector to the representatives of the petitioners.

(e) It is clarified that this court has not expressed any opinion on merits in respect of the claim made by the contesting parties.

(f) All issues on merits are kept open.

(g) The order of status-quo would continue to operate, till the communication of the Collector's decision to the representatives of the petitioners and four weeks' thereafter in case of order being adverse to the petitioners.

7. Writ Petition stands disposed of. In view of disposal of main writ petition, Civil Application [W] No.52 of 2015 also stands disposed of.

[S.B. SHUKRE, J.]

[NARESH H. PATIL, J.]