

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

WRIT PETITION (STAMP) NO.19427 OF 2014

Mr. Laxman Dhakorkar (expired)

Through legal heirs

Mrs. Laxmi Laxman Dhakorkar and others

.. Petitioners

Versus

The Addl. Collector (Enc. & Rem.)

and others

.. Respondents

Mr. Angad Giri a/w Mr. Sagar Batavia, for the Petitioners.

**Mr. R. S. Apte, Senior Advocate a/w Ms. Pallavi Thakar, for the
Respondent Nos.2 & 3.**

Mr. S. D. Rayrikar, AGP for the Respondent No.1.

CORAM : R.M. SAVANT, J.

DATE : 14th AUGUST, 2015

PC.

1. The above Petition takes exception to the order dated 02.07.2014 passed by the Additional Collector, Western Suburbs, by which order the Additional Collector held that the Appeal filed by the Petitioners who are the heirs of late Shri. Laxman Dhakorkar is not maintainable. The said Appeal was filed against the letter dated 15.05.2013 which was addressed to Shri. Laxman Dhakorkar, by which he was informed that he is eligible for allotment of permanent alternate accommodation and that he should shift to the permanent alternate accommodation, failing which

the structure would be demolished. The said letter has been issued under the signatures of the Assistant Commissioner, K/East, Executive Engineer K/East and Assistant Commissioner of the Municipal Corporation of the Greater Mumbai. The above Petition has been heard from time to time and the parties explored the possibility of resolving the matter amicably.

2. The Learned Senior Counsel appearing for the MCGM Shri. R. S. Apte informed this Court on the last occasion that the Petitioner would be allotted the permanent alternate accommodation for commercial user for which he has been held eligible. Upon this, the heirs of the said Shri. Laxman Dhakorkar visited the site at which the permanent alternate premises were to be allotted. After satisfying themselves, they have made the deposit of Rs.34,000/- and odd for being allotted the said permanent alternate accommodation which is at final Plot No.228, TPS-V, Nariman Road, Vile Parle (E), Mumbai. The Learned Senior Counsel Shri. R. S. Apte stated that the Respondent MCGM would make allotment of the said premises today itself by handing over the letter of allotment to the Learned Counsel appearing for the Petitioner Shri. Angad Giri. The said letter is accordingly handed over to Shri. Angad Giri in Court today, who has accepted the same. The Learned Counsel Shri. Angad Giri states that the requirement from the Petitioners of the no objection of the other heirs of the late Shri. Laxman Dhakorkar in favour of the allottee Smt. Laxmi

Laxman Dhakorkar would also be furnished by Monday, the said 17.08.2015. Statement accepted as and undertaking to this Court. If the compliance is made by 17.08.2015, then possession would be handed over by the MCGM on 17.08.2015 itself. The Learned Counsel for the Petitioners states that the Petitioners on possession being handed over on 17.08.2015 undertake to shift to the new premises latest by 02.09.2015. Undertaking accepted.

3. The Petitioners have been held to be ineligible for allotment of second commercial premises. The Petitioners intend to file an application with the Deputy Municipal Commissioner Zone-3 within 15 days from date. If any such application is filed by the Petitioners, the Deputy Municipal Commissioner, Zone-3 is directed to decide the same within two months of the filing of the application by giving proper opportunity to the Petitioners. This Court does not express any opinion as regards the entitlement of the Petitioners. With the aforesaid directions, the Writ Petition is disposed of.

4. It is made clear that if the premises are handed over on 17.08.2015 and the Petitioners do not vacate by 02.09.2015, then the MCGM is free to proceed in accordance with law.

[R.M. SAVANT, J]