

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION St.NO.21274 OF 2015**

Pramodkumar Umashankar Barnval & Ors.	..Petitioners
Vs.	
The State of Maharashtra & Ors.	..Respondents

**WITH
WRIT PETITION St.NO.21294 of 2015**

Sunita Nandgaokar & Ors.	..Petitioners
Vs.	
The State of Maharashtra & Ors.	..Respondents

Mr. Vidnyan Daware for the Petitioners in Writ Petition St. No.21274 of 2015
Mr. Makarand Kale for the Petitioners in Writ Petition St. No.21294 of 2015
Ms M. S. Bane “B” Panel Counsel for the Respondent Nos.1 to 4
Mr. S. P Thorat for the Respondent No.5
Mr. R.D. Soni a/w Mr. S. N. Gawade i/b Shree & Co. for the Respondent No.6
Mr. S. G. Surana a/w Mr. Y. D. Bandal for the Respondent No.7

CORAM : R. M. SAVANT, J.
DATE : 10th AUGUST, 2015

P.C.

1 The above Petitions take exception to the order dated 28-7-2015 passed by the Appellate Authority i.e. Additional Collector (Encroachment / Removal) Western Suburbs, Mumbai, by which order, the Appeals filed by the Petitioners under Section 35 of the Slum Act, came to be dismissed.

2 The Petitioners in both the Petitions have their structures on the

land which is covered by the Slum Rehabilitation Scheme, there were about 331 structures on the said land amongst which were the structures of the 9 Petitioners in Writ Petition St. No.21274 of 2015 and the 6 Petitioners in Writ Petition St No.21294 of 2015.

In so far as Writ Petition St No.21274 of 2015 is concerned, except the Petitioner Nos.1, 6 and 9, the rest of the Petitioners have been held to be eligible for permanent alternate accommodation in terms of the government policy.

In so far as Writ Petition St No.21294 of 2015 is concerned, except the Petitioner No.4, rest of the Petitioners are held to be ineligible for allotment of permanent alternate accommodation.

3 The three Petitioners in Writ Petition St No.21274 of 2015 and the five Petitioners in Writ Petition St No.21294 of 2015 have filed applications before the Competent Authority for adjudication of their claim as regards their eligibility to qualify for allotment of permanent alternate accommodation. The said applications it seems have been filed in July 2015, in view of the fact that the Petitioners structures are impeding the implementation of the Slum Rehabilitation Scheme that notice under Section 33 of the Slum Act came to be issued to the Petitioners, pursuant to which the proceedings under the said provision were commenced and which have culminated in the order dated 28-4-2015 passed by the Deputy Collector (Encroachment/Removal), the

Petitioners aggrieved by the said order challenged the same by way of the Appeals under Section 35 of the Slum Act before the Additional Collector. The Additional Collector did not deem it appropriate to grant any reliefs in the said Appeals and has accordingly dismissed the said Appeals. Hence both the authorities below have concurrently held that the Petitioners cannot now continue on site and that they are required to be evicted and their structures are required to be demolished.

4 On behalf of the Respondent No.7 i.e. the developer, the Learned Counsel Mr. Surana made a statement that the Petitioners including the ineligible Petitioners would be paid the amount of Rs.77,000/- for the period of 11 months so as to enable them to make temporary alternate arrangements for their residence till permanent accommodation is ready. In so far as the ineligible Petitioners are concerned, the Learned Counsel states that though the said Petitioners would be paid the amount of Rs.77,000/-, the same would be for the period of 11 months or till their eligibility is decided. This the Learned Counsel states is the amount which has been paid to the other persons who had their structures on the site in question and who have vacated their structures. The learned Counsel further states that the said amount of Rs.77,000/- was offered to each of the Petitioners but they refused to accept the said amount. The Learned Counsel further states that the cheques for the said amount of Rs.77,000/- can be collected by the Petitioners from the office

of the Respondent No.7 in the course of the next two days. Statement accepted.

5 In view of the said statement made by the Learned Counsel for the Respondent No.7, care has been taken in respect of even those Petitioners who are held to be ineligible in Annexure-II. In so far as the applications filed by the ineligible Petitioners are concerned, the Competent Authority i.e. the Deputy Collector (Encroachment / Removal) Mumbai Western Suburb, is directed to consider the said applications latest by 31-10-2015 by giving the Petitioners a proper opportunity to produce the relevant documents in support of their assertion that they are eligible. In the light of the above, there is no warrant now to interdict in the Writ Jurisdiction of this Court with the impugned orders. Hence by confirming the impugned orders, the Writ Petitions are disposed of.

6 However the Petitioners both eligible and ineligible are granted time till 25-8-2015 to vacate and hand over their structures to the concerned Respondents. In the event, the Petitioners do not hand over the structures in question, then the authorities would be free to execute the notice which is impugned in the present Petitions.

[R.M.SAVANT, J]