

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

**WRIT PETITION (STAMP) NO.21690 OF 2015**

**Shri. Mohmmmed Arif Shaikh and another .. Petitioners**

**Versus**

**State of Maharashtra and others .. Respondents**

**Mr. D. D. Singh i/by Mr. A. S. Singh, for the Petitioners.**

**Mrs. V. S. Nimbalkar, AGP for the Respondent Nos.1 to 3.**

**Mr. Rajesh Singh i/by Mr. Sandeep Mahadik, for the Respondent No.4.**

**CORAM : R.M. SAVANT, J.**

**DATE : 14<sup>th</sup> AUGUST, 2015**

**PC.**

1. The Writ Jurisdiction of this Court is invoked against the order dated 06.08.2015 passed by the Additional Collector (Encroachment /Removal), Western Suburbs, by which order the Appeal filed by the Petitioners being Appeal No.321 of 2015 came to be dismissed and resultantly, the order dated 13.07.2015 passed by the Deputy Collector (Encroachment/Removal), Malad came to be confirmed. The Petitioners have their structure on the land in question which has been mentioned in opening paragraph of the impugned order. The said lands are situated at Malad, Taluka Borivali. A slum rehabilitation scheme is being implemented on the said lands for the benefit of the society of the slum

dwellers i.e. Radhanagar SRA Co-operative Housing Society. It appears that there are 371 slum dwellers out of which the Respondent No.4 has made arrangements for 250 slum dwellers. Out of the said 371 slum dwellers, 90% of the slum dwellers have endorsed the slum rehabilitation scheme being implemented by the Respondent No.4 for the said Radhanagar SRA Co-operative Housing Society. The LOI in respect of the said slum rehabilitation scheme came to be issued on 30.08.2007 and revised LOI came to be issued on 21.07.2009. The plan for rehabilitation of building Nos.1 and 2 was sanctioned as also the commencement certificate came to be issued to the Respondent No.4 herein.

2. In view of the fact that the Petitioner's structures were impeding the implementation of the said slum rehabilitation scheme that the notice came to be issued to the Petitioners under Section 33 pursuant to which the proceedings were initiated for eviction of the Petitioners which culminated in the order passed by the Deputy Collector (Encroachment/Removal), Malad dated 13.07.2015. The Deputy Collector adverted to the aforesaid facts and also adverted to the facts that the Respondent No.4 is ready and willing to pay Rs.8000/- per month for eleven months to the Petitioners on humanitarian ground, so that the Petitioners can provide themselves till they find suitable accommodation. It is required to be noted that the Petitioners have been held to be

ineligible for allotment of permanent alternate accommodation in terms of the Annexure-II which has been issued by the Deputy Collector (Encroachment/Removal). The Deputy Collector (Encroachment/Removal) accordingly has directed the eviction of the Petitioners from the site in question and demolition of their structures.

3. The Petitioners aggrieved by the said order dated 13.07.2015 passed by the Deputy Collector (Encroachment/Removal) filed an Appeal under Section 35 of the Slum Act. The Additional Collector/Appellate Authority did not deem it appropriate to interfere with the order passed by the Deputy Collector (Encroachment/Removal) and accordingly dismissed the appeal. The Appellate Authority has reiterated what has been stated by the Deputy Collector in his order dated 13.07.2015.

4. The Learned Counsel appearing for the Petitioners Mr. D. D. Singh would contend that the order passed by the Appellate Authority is passed in breach of the principles of natural justice as the Petitioners have not been heard. It is next contended by the Learned Counsel for the Petitioners that the Petitioners are claiming title to the land on which their structures are situated. In my view, it is not possible to accept any of the said contentions. In so far as the hearing to be afforded to the Petitioners is concerned, it is undisputed fact that the Petitioners were heard on

04.08.2015 and the matter was closed for orders. The Learned Counsel for the Petitioners seeks to make a submission as regards the content of the hearing granted. In my view, that cannot be a ground to allege violation of the principles of natural justice. In so far as the next contention of the Learned Counsel for the Petitioner is concerned, the record discloses that the Petitioner has filed a suit in the City Civil Court, in which he has been denied interim reliefs. In my view, therefore, the order passed by the Deputy Collector (Encroachment/Removal) as confirmed by the Appellate Authority does not merit any interference at the hands of this Court. The Writ Petition is accordingly dismissed.

5. The Learned Counsel for the Petitioners seeks continuation of the ad-interim relief. In the light of the what has been stated hereinabove and when the Respondent No.4 is ready to make the payment to the Petitioners, the said prayer is rejected.

**[R.M. SAVANT, J]**