

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.2550 OF 2015
IN
WRIT PETITION NO.8877 OF 2015

Smt. Sumanlata Premchand Jain (Expired)]
Through Mr. J itendra Premchand Jain & Ors.] ... Applicants

Versus

The Addl. Collector (Enc. & Rem.) & Ors.] ... Respondents

Mr. Angad Giri a/w Mr. Sagar Batavia for Applicants.
Mr. A. R. Metkari, A.G.P, for Respondent No.1.
Mr. H. Toor i/b Mr. S. H. Mishra for Respondent No.4.
Mr. Abhijit Desai for Respondent No.5.
Mr. Pawan Seth, Respondent No.4, present in person.

CORAM :- M. S. SONAK, J.
DATE :- SEPTEMBER 10, 2015

P. C. :-

1. By this application, the Applicants seek 15 days time to hand over possession of their huts after taking possession of temporary alternate premises.

2. To say the least, the Applicants are not justified in making an application of this nature. This Court, by its order dated 29/08/2014, whilst dismissing the petition and confirming the impugned order, made the following directions at para 6 :-

- “1. The impugned orders are confirmed.*
- 2. Respondent No.4 shall first hand over the possession of temporary alternate premises to the petitioners. The petitioners shall accept the premises without any protest and petitioners will vacate and hand over peaceful possession of structures in their possession. Assurance given by Mr. Sagar Batavia that upon handing over possession of a temporary accommodation the petitioner will not cause any obstructions and resistance is recorded.*
- 3. The allotment of permanent commercial premises to the petitioners shall be subject to the outcome of proceedings before High Power Committee.*
- 4. Subject to the above, petition is dismissed. Order accordingly.*

The parties to act upon the authenticated copy of this order.”

3. Now, the Applicants are reluctant to vacate their premises and move into the temporary alternate premises which are being offered by the Respondent No.4. Mr. Toor, learned Counsel for Respondent No.4, has stated that despite letters and offers requiring the Applicants to take possession of the temporary alternate premises, the Applicants are avoiding to do so.

4. From the contention of Mr. Toor, it does appear that the Applicants are avoiding to take possession of the temporary alternate premises. The learned Counsel for Applicants has stated that the alternate premises are leaking, sewer pipes are installed in one of the premises and further that the Occupancy Certificate is not available in respect of the premises. All these issues were never raised at the time

when the petition was disposed of on 29/08/2014. In any case, out of 151 slum dwellers, only 7 Applicants remain to be relocated. Rest of the slum dwellers have been rehabilitated in substantially similar premises. Further, Mr. Toor has assured this Court that once the Applicants shift into the temporary alternate premises, within a period of 20 to 30 days after the shifting, if at all there are any serious issues with regard to leakage or otherwise, the same will be sorted out. His statement is made on the basis of instructions of Mr. Pawan Seth, the Developer – Respondent No.4. Mr. Pawan Seth has assured this Court that he will not hold anything against the Applicants for having approached this Court to seek reliefs from this Court.

5. With regard to the issues of allotment of permanent commercial premises, the rights and contentions of the Applicants have been kept open which is clear from para 3 of the aforesaid operative portion of the order.

6. At this stage, the learned Counsel for Applicants states that the Applicants will, without any further excuse, vacate and hand over the peaceful possession of the structures in their possession to the Respondent No.4 on 15/09/2015. The statement is accepted as an undertaking to the Court. Mr. Pawan Seth, Respondent No.4, has, in the presence of the Court, handed over the keys in respect of the temporary alternate premises to the learned Counsel for the Applicants. It is reported that one of the Applicants has already accepted the keys and moved into the alternate premises.

7. In view of the aforesaid, this Civil Application, which, in any case was unjustified, is dismissed.

8. All concerned to act on basis of authenticated copy of this order.

(M. S. SONAK, J.)

CERTIFICATE

Certified to be true and correct copy of the original signed
Order.