

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

WRIT PETITION NO.8939 OF 2015

Shri Umakant Shivnath Maurya .. Petitioner

V/s

Additional Collector [E & R, E.S.] and Others .. Respondents

Shri S.M. Shah for the Petitioner.

Mrs. M.S. Bane 'B' Panel Counsel for Respondent No.1.

Mr. P.G. Lad for Respondent Nos. 2 and 4.

Mr. S.P. Thorat for Respondent No.5.

Mr. Birendra Saraf i/b Ajit Raojgole for Respondent No.7.

**CORAM : M.S. SONAK, J.
DATED : 21 SEPTEMBER 2015**

PC. :

. This petition can be disposed of by following order :-

2 Respondent No.1 is directed to dispose of Slum Appeal Nos. 62 and 63 of 2015, instituted by the Petitioner in accordance with law and on its own merits as expeditiously as possible and in any case, within a period of four weeks from today. The orders made

in these matters to be duly communicated to all the parties, including the Petitioner.

3 Respondent No.1 is further directed to hear and dispose of the Application dated 3 September 2015 made by the Petitioner seeking his inclusion in Annexure-II, again in accordance with law and on its own merits. Respondent No.1 to consider whether new guidelines will apply to the case of the Petitioner and if so, take the new guidelines into consideration, while deciding the Petitioner's application dated 3 September 2015.

4 It is made clear that this Court has not gone into merits of the matter, it is only for Respondent No.1 to decide the aforesaid matter. All contentions of all parties are kept open.

5 In this petition, on 4 September 2015, directions were issued to the Respondents to refrain from taking any action against the structure held by the Petitioner. However, it appears that on 7 September 2015, the structure came to be demolished. The explanation offered by the Authority is that since the order of this Court was not served by the Petitioner upon the right Department,

the demolition took place. The Authorities submit that there was no intention whatsoever to disobey the order of this Court and due to miscommunication of the order, the demolition took place. Although the explanation offered does not inspire much confidence, considering that interests of the Petitioner are being secured on account of fair approach adopted by Respondent No.7, it is not necessary to pursue the matter against the Authorities any further. In the first place, the learned Counsel appearing on behalf of the Petitioner points out that the order of this Court was served upon the right Department. In any case, since the order was served, there was no question of taking up a defence that the same was served upon some incorrect department.

6 Respondent No.7, who is developer, without prejudice has made statement that Ramakant Maurya will be paid compensation in lieu of the alternate accommodation (temporary) at the rate of Rs.125/- per sq.ft. per month in respect of the area of 186 sq ft. Such compensation will be paid each month by directly depositing the same in the bank account of Ramakant Maurya. The Petitioner, who is Constituted Attorney holder of Ramakant Maurya will intimate the bank details to Respondent No.7 within a period of

one week from today. There is dispute with regard to precise area of the structure occupied by the Petitioner. According to the Petitioner, the area is 218 sq ft. The Respondent No.1 while deciding the pending matter will attempt to resolve this dispute. In case this dispute with regards to area is resolved in favour of the Petitioner, Respondent No. 7 to pay the compensation in respect of area so determined. Further, it is made clear that Respondent No. 7 shall continue to make payment of compensation until the issue of eligibility of the Petitioner determined. If the Petitioner is not found to be eligible, then there shall be no further obligation for payment of compensation or allotment of permanent alternate accommodation. However, if the Petitioner is found to be eligible, the Petitioner will be granted permanent alternate accommodation.

7 It is to be noted that even if the Petitioner's structure had not been demolished, an order in aforesaid terms would have sufficed, particularly since the learned Counsel for the Respondents states that out of 111 occupants, 110 occupants have already vacated their respective premises.

8 The statement made by Respondent No.7 is accepted. Respondent No.7 is directed to pay the compensation and comply with other obligations as aforesaid.

9 This Petition is accordingly disposed of.

10 There shall be no order as to costs.

11 At this stage, the Petitioner seeks leave to file the Contempt Petition against Respondent No.4. In my judgment, there is no necessity for granting such permission, particularly, there is some explanation offered with regard to communication gap. Further, the interests of the Petitioner have been fully protected by this order. Accordingly, there is no case made out for exercise of contempt jurisdiction against the Officers. Mr Lad, the learned Counsel for Respondent Nos. 2 and 4 has assured this Court that they will act carefully in future.

(M.S. SONAK, J.)

C E R T I F I C A T E

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