

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 9585 OF 2015

Ms Hilarian Alvares

.. Petitioner

vs.

Additional District Collector (E/R)

and ors.

.. Respondents

Mr. Dinesh Kadam for the Petitioner.

Ms M.S. Bane, B-Panel Counsel for Respondent Nos.1 and 2.

Mr. Manoj Patil for Respondent Nos.3 and 4.

CORAM : M. S. SONAK, J.

DATE : 26 OCTOBER 2015.

P.C. :-

1] Rule. With the consent of and at the request of learned counsel for the parties, Rule is made returnable forthwith.

2] There is no appreciable difference, except on one material aspect, insofar as this petition and Writ Petition No. 9584 of 2015 is concerned. Therefore, for the reasons set out in the order made in Writ Petition No. 9584 of 2015, this petition is also liable to be dismissed.

3] The material difference is that the Petitioner in Writ Petition No. 9584 of 2015 was held to be eligible to avail the benefits of scheme. In this case, the Petitioner is held to be ineligible. Therefore, ordinarily, there is no question of awarding the Petitioner any rent in lieu of alternate accommodation or permanent tenement.

4] However, the learned counsel for the Petitioner points out that the issue of eligibility is pending before the Dy. Collector, i.e., Respondent No.2. Accordingly, Respondent No.2 is directed to decide the issue of eligibility as expeditiously as possible and in any case within a period of three months from today. Respondent No.2 shall afford full opportunity to the Petitioner and any other concerned, at the stage of deciding this issue of eligibility.

5] Further, Respondent Nos.3 and 4 have filed affidavits in this Court stating that without prejudice to their rights and contentions and until the issue of eligibility is determined, the said Respondents will pay to the Petitioner the compensation in lieu of alternate accommodation at the rate of Rs.10,000/- per month, which is incidentally the same compensation which is payable even to the eligible persons. Further, in case, the Petitioner is adjudged as eligible, even the Petitioner will be allotted permanent tenement under the scheme. These statements are accepted as Undertaking to the Court. Respondent Nos.3 and 4 shall comply such statements.

6] It is made clear that in case, the Petitioner is adjudged as ineligible, then there shall be no further requirement for payment of compensation in lieu of alternate accommodation or allotment of

any permanent tenement.

7] Further, it is made clear that even if the Petitioner is found to be ineligible, Respondent Nos.3 and 4 shall not insist upon or be entitled to seek recovery of amounts paid in interregnum.

8] In case, the Petitioner files an Undertaking before this Court, within one week from today, that she shall hand over the possession of the suit premises within a period of six weeks from today, the Authorities may not execute the eviction/demolition orders. However, if the Petitioner fails to file such Undertaking, the Authorities can proceed with action in terms of law, at any time, after the expiry of period of one week from today. Copy of such Undertaking to be furnished to the learned counsel for the Respondents before the same is filed in the Registry.

9] Subject to the aforesaid, there is no reason to interfere with the impugned order. Accordingly, the Petition is dismissed by accepting the Undertaking as aforesaid.

10] All concerned to act on the basis of authenticated copy of this order.

(M. S. SONAK, J.)