

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

WRIT PETITION NO.11581 OF 2014

Mr. Mohan B. Solanki and others

.. Petitioners

Versus

Mr. Prashant Humbir Director of

Kshama Developer's (P) Ltd. and others

.. Respondents

**Ms. M. Sindha Shreedharan i/b Mr. Satyam Shreedharan, Advocate
for the Petitioners.**

**Mr. Snehal Shah with Ms. Deepti Panda i/b Mr. Rajesh M. Yadav,
Advocate for Respondent No.1.**

Mr. S. D. Rayrikar, AGP for Respondent No.3.

CORAM : R.M. SAVANT, J.

DATE : 13th JANUARY, 2015

PC.

1. The order dated 12.12.2014 passed by the learned Judge of the City Civil Court, Borivali Division, Dindoshi is taken exception by way of the above Petition. The said order was passed on application Exh.8 filed by the Petitioner for extension of stay granted by the Apex Court on 28.11.2014. It would be apposite to reproduce the operative part of the impugned order which reads thus :-

“This court can't extend the order of Hon'ble Apex court. However, Plaintiff has a liberty to approach the Hon'ble Apex Court within 15 days from today and get the

appropriate order.”

2. The above petition was moved for admission before a Learned Single Judge of this Court on 22nd December, 2014 when the Learned Single Judge having regard to the fact that one of the Respondents i.e. Deputy Collector of Encroachment and Competent authority issuing a 24 hours notice of demolition of the structure of the Petitioners under the Slum Act, 1971 directed the parties to maintain status-quo in respect of the structure and adjourned the petition to 8th January, 2015. The petition was thereafter listed on 8th January, 2015, however did not reach hearing and in view of the order of status-quo which was operating the Respondent No.1 herein who is the developer has moved the above petition for hearing as to admission.

3. It is required to be noted that the matter had reached the Apex Court as the Petitioners herein had challenged the order dated 13.11.2014 passed by a Learned Single Judge of this Court dismissing the Writ Petition filed by the present Petitioners being Writ Petition (Lodging) No.2876 of 2014 which was filed on the Original Side of this Court. Before the Apex Court the Petitioners withdrew the Special Leave Petition with liberty to amend the injunction application filed by them which was pending in the City Civil Court in order to seek relief against the second demolition notice dated 30.10.2014. It seems that the second demolition notice was issued

to Petitioners whilst their challenge to the first demolition notice was being considered by a Learned Single Judge of this Court. The Apex Court accordingly allowed the Petitioners to withdraw the said Special Leave Petition with the liberty as prayed for. However, in the context of the present petition what is relevant to note is that the Apex Court directed the parties to maintain status-quo for a period of two weeks. Hence, the status-quo for two weeks period was granted by the Apex Court in view of the fact that the Petitioners wanted to amend their application for injunction which they had filed in their pending suit. The instant impugned order dated 12th December, 2014 has been passed on the application Exh.8 which the Petitioners had filed for extension of the order of the status-quo passed by the Apex Court. The operative part of the impugned order has been already adverted to herein above. As indicated above, being aggrieved by the said order dated 12.12.2014 that the instant petition has been filed.

4. The learned counsel for the Petitioners Ms. Shreedharan states that the Notice of Motion being No.1670 of 2014 has accordingly been amended pursuant to the liberty granted by the Apex Court. It seems that an earlier motion being Notice of Motion No.1663/2013 which is for the same reliefs, but based on an earlier cause of action is also pending. The learned counsel appearing on behalf of the Respondent No.1 herein Mr.

Shah states that the said motions were listed for hearing on 5th January, 2015, but could not be proceeded with in view of the fact that the Petitioners i.e. original Plaintiffs were not represented and therefore, were required to be adjourned to 13th February, 2015. The learned counsel states that in view of the fact that except the Petitioner/Plaintiff the rest of the occupants numbering about 112 have already vacated, the pendency of the proceedings is causing serious prejudice, as the Slum Redevelopment Scheme which would benefit the slum dwellers who have vacated is being delayed. In my view, since the motions for interim injunction filed by the Plaintiffs being Notice of Motion No.1663 of 2013 and Notice of Motion No.1670 of 2014 are pending consideration of the Trial Court, it would be just and proper to prepone the hearing of the said motions to a day convenient to both the parties. The learned counsel for the parties state that they are agreeable to the motion being proceeded with on 20th January, 2015. This preponment is in view of what has been sated herein above. Since there is an order of status-quo which is operating in the above Petition and which was also granted by the Apex Court for a period of two weeks, it would be just and proper to continue the said order of status-quo till the disposal of the said Notices of Motion. The Trial Court is therefore directed to hear and decide the motions latest by 17th February, 2015. The order of status-quo would operate till 17th

February, 2015 and would be subject to the final orders that would be passed in the two Notices of Motion which are directed to be disposed of by the impugned order. With the aforesaid directions, the Writ Petition is disposed of. It is also made clear that the order of status-quo would operate also in respect of any order of demolition that would be issued pending consideration of the said Notices of Motion.

[R.M. SAVANT, J]