

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO.356 OF 2015

Sarjibhai Heera Singhal

... Petitioner

Vs.

Municipal Corporation of Greater Mumbai & Os. ... Respondents

Ms.Neeta Karnik for the Petitioner

Ms.Vandana Mahadik for Respondent - Corporation

**CORAM: SMT. VASANTI A. NAIK &
SHRI C.V. BHADANG, JJ.**

DATE: 10th FEBRUARY, 2015

P.C.:

By this petition, the petitioner seeks a direction to the respondents not to take coercive steps to dispossess the petitioner from room No.61/A, New Municipal Chawl No.6 without following the due process of law.

The petitioner was in service of the Corporation as a Halalkhor and he retired from service on reaching the age of superannuation on 31.7.2013. It is the case of the petitioner that his uncle Laxman, who is now deceased, was given room No.61/A on monthly rent and was a tenant in the said room. It is stated that despite the fact that Laxman was a tenant and the petitioner was occupying the said room, the respondent – Corporation issued notices from time to time asking the petitioner to

vacate the premises as according to the Corporation, the petitioner was occupying the public premises which were not occupied by Laxman as service quarters. Some previous notices of eviction were dropped by the Corporation and one of the notices was set aside by the City Civil Court. It is the case of the petitioner that the respondent-Corporation has not paid the terminal benefits to the petitioner on the ground that the petitioner is illegally occupying the room No.61/A. It is the case of the petitioner that on 30.1.2015, several employees of the Corporation came to the chawl and asked the petitioner to vacate the premises. The petitioner, being threatened by the respondent – Corporation, has approached this Court seeking the aforesaid relief.

The relief sought by the petitioner cannot be granted in exercise of the writ jurisdiction. Several disputed questions of facts arise for determination in this writ petition. It appears from the averments made in the writ petition and the documents annexed to the same that though it is the case of the petitioner that his uncle Laxman was a tenant in the chawl owned by the Corporation, it is the case of the respondent-Corporation that Laxman was occupying the premises as service quarters. On one of the previous occasions, the petitioner had approached the city civil court. The issues involved in this case could be decided only after granting an opportunity to the parties to tender evidence. Hence, in the facts of the

case, we decline to entertain the writ petition in exercise of the jurisdiction under Article 226 of the Constitution of India.

In the result, the writ petition is disposed of with no order as to costs.

All points raised in the petition are however kept open.

(C.V. BHADANG, J.)

(VASANTI A. NAIK, J.)