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

PUBLIC INTERESTG LITIGATION NO.30 OF 2012

Aslam Malkani	...Petitioner
v/s.	
The State of Maharashtra and Anr.	...Respondents.

Mr.A.A.Siddiquie i/b A.A.Siddiquie & Associates, for the Petitioner.
 Mr.Milind More, AGP for Respondent No.1 – State.
 Ms.Varsha Palav, i/b The Laureate, for Respondent No.2.

**CORAM: A. S. OKA &
REVATI MOHITE DERE, JJ.**

DATED : 10th JUNE, 2015.

P.C.

1. Heard learned counsel appearing for the petitioner, learned Additional Government Pleader for the first respondent and the learned counsel appearing for the second respondent.

2. The case made out in the petition is that there are structures of a Mosque and a temple which are affected by a Slum Rehabilitation Scheme of which the second respondent is the Developer. The grievance is that in Annexure – II it is shown that the Mosque and the temple are not eligible for rehabilitation.

3. The first respondent by filing a reply has raised an issue of the maintainability of this PIL at the instance of the petitioner.

4. It is not the case of the petitioner that the structures of Mosque and temple have been constructed after obtaining permission of the Competent Authority. The case made out in the petition proceeds on the footing that as the structures were allegedly in existence before the cut-off date, a provision ought to have been made for rehabilitation in the Slum Rehabilitation Scheme.

5. It appears that the persons who are directly concerned with the said Mosque and temple have not come forward to submit documents to show the eligibility for rehabilitation.

6. There is a reply filed on behalf of the first respondent. As stated earlier, apart from disputing the contentions of the petitioner, it is pointed out in the affidavit in reply of Shri Uddhav Ramkishan Ghuge, Deputy Collector (Enc/Rem) and Competent Authority, that no documents have been submitted as regards the eligibility of the said structures and therefore, the structures have been declared as non-eligible in the

Annexure –II. It is stated that on eligibility being proved, the holders of the said structures, will get specific areas by way of rehabilitation.

7. Without going into the issue of maintainability of the PIL, in the light of the stand taken by the Deputy Collector, we dispose of this petition by passing the following order :-

ORDER

- i) It will be open for the petitioner to produce documents for establishing eligibility of both the structures with the Deputy Collector (Enc/Rem) and Competent Authority, Borivali, within a period of six weeks from today ;
- ii) If such documents are produced by the petitioner within a period of six weeks from today, the Deputy Collector shall consider the said documents and pass appropriate order, in accordance with law, on the issue of eligibility within a period of two months from the date on which the documents are submitted.

8. The petition is disposed of on above terms.

(REVATI MOHITE DERE,J.)

(A.S. OKA,J.)