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

WRIT PETITION NO. 2957 OF 2014

Smt. Padmavati Prabhakar Jagtap	**}**	
and Anr.	**}**	**Petitioners**
versus		
Slum Rehabilitation Authority and Ors.	**}**	**Respondents**

Mr. Devendra B. Shukla for the Petitioner.

Mr. Sandesh D. Patil with Mr. Pavan S. Patil for Respondent Nos. 4 and 5.

CORAM :- S. C. DHARMADHIKARI &
G. S. KULKARNI, JJ.

DATED :- JULY 6, 2015

P.C. :-

We have heard on the earlier occasion and even today both sides extensively.

2) The Petitioners claim is for permanent alternate accommodation and they state that in the old premises they were having a tenement for commercial as well as residential purpose. They should therefore be declared eligible for commercial premises.

3) The Petitioners' claim has been denied by all parties and contesting the Petition. We have the affidavit in reply of Respondent No. 4, wherein, it is specifically averred that the Petitioners were

eligible for residential tenement. Annexure II issued on 23rd February, 2006 indicates the Petitioners' eligibility and for residential premises. That was finalised in the year 2006 and the Petitioners now claim and belatedly that Annexure II is faulty or needs to be rectified. Apart therefrom, all the details have been set out from paras 9 onwards of this affidavit and it is stated that the Petitioners have accepted a letter and agreed to shift to the transit accommodation immediately. However, it is immediately clarified in para 11 that the Petitioners did not come forward to collect the keys of the transit accommodation. The Petitioner No. 1 had also not signed the agreement and to be executed with the Developer for the alternate premises.

4) From the record, it appears that the Petitioners also did not accept the cheques of compensation in lieu of temporary/transit accommodation.

5) It is in the backdrop of all this that we passed the earlier order and in compliance there with, we are informed by Mr. Patil that the bank account of Petitioner No. 1 Smt. Padmavati P. Jadhav has been credited with Rs.3,09,000/-. Mr. Shukla appearing for the Petitioners states that this is not the correct and complete amount.

6) We are really concerned with somebody who is eligible for a permanent alternate accommodation and whose status was that of a slum dweller earlier. If the whole purpose and object is to ensure that those living in subhuman condition and which are not fit for human habitation get a proper accommodation and are able to reside in Mumbai in hygienic and healthy surroundings, then, it is the duty of the authority to oversee the project and undertaken by the Builders and Developers. Their participation in the project may be inevitable and for want of funds and other arrangements, it may not be possible for the statutory authorities to undertake such massive and mass housing projects, but, those living in dilapidated structures and initially deprived of their slum structures have no assurance and certainty that they will get a house permanently. For them to survive in a city like Mumbai, till the permanent accommodation is ready, the authority must ensure that they are provided with sufficient funds. The funds must be made available month to month and regularly. We have now ensured that Petitioner No. 1 has to her credit a sum of Rs.3,09,000/-. If that is not the exact sum, then, let the Petitioners accept the same without prejudice to their rights and contentions. Mr. Shukla submits that the same would be accepted accordingly.

7) Similarly, within a period of 10 days from today, let the parties execute the necessary agreement/contract for permanent alternate residential accommodation. We have not found the Petitioners to be eligible and in any manner for commercial structure. The Petitioners' earlier premises and stated to be business premises cannot be termed as such only on the strength of some certificate issued under the Maharashtra State Tax on Professions, Trades, Callings and Employment Act, 1975. Even the certificate of registration, which is stated to be issued by the Superintendent (Service Tax), Central Excise, Mulund Division would not denote that the Petitioner was carrying commercial operations and that of a cable operator from any specified premises.

8) In such circumstances, we do think that the Petitioner can be provided with any commercial premises and on permanent basis. To that extent, the Writ Petition cannot be entertained. It is accordingly dismissed.

9) The details that are provided in the certificates, copies of which are annexed to the Petition, are not enough to identify the premises which were held and for alleged commercial user earlier. In the circumstances, we feel that the Petitioner having been paid the aforesaid sums and the remedies to recover anything that is stated to be

payable and outstanding not being foreclosed, the only direction can be issued is to ensure that the agreement between Respondent No. 4 – M/s. Ashwamedh Builders and Developers with Petitioner No. 1 Smt. Padmavati Prabhakar Jagtap is executed. The same shall be executed and signed within 10 days from today. The Developer/Respondent No.4 shall also register this agreement and in accordance with law.

10) Mr. Patil stated that the civil construction is also complete, as is clear from the photographs at pages 84 to 87. Mr. Patil states that in the drawal of lots and which may be held any time shortly, the Developer will ensure that the Petitioner is allowed to participate and also make suggestions about the premises to which she is entitled, preferably on the lower floor and considering her age.

11) The Writ Petition is disposed of in the above terms. No costs.

(G.S.KULKARNI, J.) **(S.C.DHARMADHIKARI, J.)**