

**WRIT PETITION NO. 1685 OF 2014
WITH
CHAMBER SUMMONS NO. 146 OF 2014**

Antonettee Andrew Fernandes } Petitioner

versus

The State of Maharashtra and Ors. } Respondents

Mr. Prasad Pathare i/b. Mr. Rajesh D. Bindra
for the Petitioner.

Mr. Milind More-Addl. Government Pleader
for Respondent No.1.

Mr. Madhur S. Surana for Respondent No. 6.

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

DATED :- AUGUST 5, 2015

P.C. :-

The Petitioner has approached this Court against inaction of Respondent Nos. 2 to 5 and the Respondent 6 to allot tenement No.614, 6th floor in the building belonging to and owned by Ram Shyam Krupa Co-operative Housing Society Limited, Final Plot No. 561, Town Planning 4, Bhavani Shankar Road, Dadar, Mumbai 400 028.

2) Both, the Society and the Builder, who are Respondent Nos.5 and 6 do not dispute that this permanent alternate accommodation is not meant for housing any third party and

particularly as a transit accommodation. It is a permanent alternate accommodation in a rehab building meant for rehabilitation of eligible slum dweller. It cannot be allotted to anybody other than slum dweller or project affected person. Neither the Society nor the Builder have any right to put in possession any third party and pending completion of any project stated to be ongoing and in the vicinity. Therefore, Respondent No. 7, who was stated to have been in possession as a transit occupant had no right to occupy it nor the said Respondent Nos. 5 and 6 were empowered to put him in possession.

3) We do not wish to pursue the matter because, on instructions, it has been stated that Respondent No. 7 has since vacated this rehab tenement room No. 614. He is not in possession and occupation of the same any longer. He has neither put any family member or other claiming through him as well in possession of the said premises. This room is vacant.

4) Since there is an ongoing dispute between the Petitioner and another relative on the right to succeed to the premises on the strength of the letters of administration issued in favour of the Petitioner and that dispute is going on in this Court, we direct that the Respondent Nos. 2 to 6 shall keep the premises/room No. 614 and more particularly described hereinabove vacant and it shall not be allotted to

anybody either as permanent alternate accommodation or transit accommodation. The same shall be kept vacant till the Petitioner informs the authorities that the ongoing dispute or proceedings have come to an end. Thereafter, on the strength of the orders passed by the Court competent to decide the dispute, the allotment shall be made by the Respondents. This would be without prejudice to the rights and contentions of the Petitioner as also the opponent in the ongoing dispute.

5) We are surprised and shocked that rehab buildings which are meant for accommodation of those who are to be rehabilitated by the Slum Rehabilitation Authority are allowed to be occupied by private persons and wholly ineligible. The Slum Rehabilitation Authority, State and the Collector cannot wash off their hands and allow Societies of slum dwellers and Builders to collude with each other and allow such illegal occupation. We direct that Respondent Nos. 1 and 2 shall take note of this order and investigate all such cases. Thereafter, they must take legal action including launching criminal prosecution against the office bearers of the Societies of slum dwellers, occupants and the Builders and Developers. In the event it is found that the officers of the Slum Rehabilitation Authority or the Collectorate have connived and colluded with the Builders and Developers of the Societies of slum

dwellers, even they shall be proceeded against departmentally and in criminal Court. The compliance report shall be filed by the State in this regard within a period of three months from today. Copy of this order shall be handed over to Mr. More, the learned AGP appearing on behalf of the State.

6) With the aforesaid directions, the Writ Petition is disposed of. In view of the disposal of the Writ Petition, the Chamber Summons stands disposed of.

(G.S.KULKARNI, J.)

(S.C.DHARMADHIKARI, J.)