

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
REVIEW PETITION (L) NO.35 OF 2015
IN
WRIT PETITION (L) NO.2219 OF 2015

Mr Haji Rashid Ahmed Haji Mohd. Hasan
C.A. of Mr Mohd. Alim Haji Mohammed Jais ... Petitioner
v/s
The State of Maharashtra and others ... Respondents

Mr H.S. Anand for Petitioner.
Mr D.A. Nalawade, GP for Respondent No.1.
Ms V. Mahadik for Respondent – BMC.
Mr Salik Khan with Mr Wasim Qureshi for Respondent No.4.
Mr S.P. Thorat for Respondent No.5.

CORAM: V.M. KANADE &
B.P. COLABAWALLA JJ.

DATE : 12TH AUGUST 2015

P.C. :-

1. The Petitioner is seeking an appropriate writ, order or direction for cancellation of the permissions / sanctions / approvals granted in terms of LOI, IOA and CC on the ground that the same are illegal in view of Circular No.67 issued by the Rehabilitation Authority dated

28th December 2004 and also for other consequential reliefs including granting stay to the demolition of the structure of the Petitioner.

2. The Petitioner initially had filed petition under Article 226 of the Constitution of India challenging the eviction notice issued under sections 33 and 38 of the Maharashtra Slum Areas (Improvement, Clearance & Redevelopment) Act 1971. In that Petition, the Petitioner had also sought similar reliefs which have been claimed in this Petition. The learned Single Judge, however, observed that so far as the relief claimed in prayer clauses (a) and (b) are concerned, the same cannot be granted by the learned Single Judge and therefore, the learned Single Judge declined to consider those submissions raised by the Petitioner. However, the learned Single Judge has confirmed the action taken under sections 33 and 38 of the Slum Act.

3. So far as the present Petition is concerned, there is no substance in the submission made by the learned counsel appearing on behalf of the Petitioner. Circular No.67 dated 28th December 2004 refers to a Scheme which has been stopped prior to 2001. In the present case, the Developer has already constructed the structures and further development has been stalled on account of the Petitioner not

vacating their structures despite notice being issued under sections 33 and 38 of the Maharashtra Slum Areas (Improvement, Clearance & Redevelopment) Act 1971.

4. So far as prayer clause (b) is concerned, Circular No.67 issued by the Slum Rehabilitation Authority itself is not applicable. Prayer clause (b) does not survive. So far as prayer clause (c) is concerned, Writ Petition filed by the Petitioner in this Court vide Writ Petition (L) No.2219 of 2015 has already been dismissed by the learned Single Judge by its order dated 20th July 2015 and therefore, the Petitioner cannot claim same reliefs in this Writ Petition as it is barred by the principles of res judicata. For the same reasons, prayer clauses (d) and (e) cannot be granted.

5. In our view, therefore, there is no substance in the Petition. Petition is therefore dismissed in limine. No order as to costs.

(B.P. COLABAWALLA, J.)

(V.M. KANADE J.)