

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.1647 OF 2016

Mr. Zahir Inamullah Khan and Anr.	]	... Petitioners
Versus		
The Deputy Collector (Ench. And Rem.)	]	
and Ors.	]	... Respondents

Ms. Shabana P. Sothe for Petitioners.

Mr. Devvrat Singh a/w Mr. Mahesh Mishra & Mr. Ravi Thankian for Respondent No.2.

Mr. S. D. Rayrikar, A.G.P., for Respondent No.1.

CORAM :- M. S. SONAK, J.

DATE :- FEBRUARY 10, 2016

P. C. :-

1. The issues raised in this petition are substantially covered by the order made today in Writ Petition No.7356 of 2015 and connected matters. For the reasons set out therein, there is no case made out to interfere with the impugned order. The learned Counsel for petitioners has, however, contended that in this case, it is the petitioner no.2 who is the owner of the suit structure. However, notices came to be issued to petitioner no.1 and therefore, the impugned orders are vitiated.

2. There is no dispute that petitioner no.2 is the mother of petitioner no.1. Both of them reside in the suit structure. Therefore, this is not a case of violation of principles of natural justice and fair

play. The requirement mainly is to issue notice to the occupants. On basis of such a hyper-technical plea, there is no case made out to set aside the impugned order.

3. The learned Counsel for petitioners, however, seeks one month time for the petitioners to vacate the suit structure. She further submits that within a period of 15 days from today, the petitioners will file necessary proceedings to declare themselves as eligible to avail the benefits under the SRA scheme. She submits that until the eligibility is determined, directions be issued to the respondent no.2 to pay compensation in lieu of alternate accommodation.

4. Although the petitioners may not be presently entitled to reliefs as aforesaid, as a matter of right, the request made by the learned Counsel for petitioners, in the facts and circumstances of the present case, is quite reasonable. Therefore it is directed that though this petition is dismissed, the impugned order will not be executed for a period of one month from today. This subject to both the petitioners filing undertakings in this Court within a period of one week from today to the effect that they will themselves vacate the suit structure and hand over the possession to respondent no.2, so that the respondent no.2 is in a position to proceed with the SRA development. Copy of such undertakings to be furnished to the learned Counsel for respondents, including the learned Counsel for respondent no.2, before the same is filed in the Registry. If no undertakings are filed, the authorities shall be entitled to execute the impugned orders.

5. Further, in case the petitioners, within a period of 15 days from today, apply to the appropriate authority for determination of their eligibility, the authority will dispose of such application as expeditiously as possible and in any case, within a period of four months from today. All parties, including in particular the petitioners, to cooperate in the matter of expeditious disposal.

6. The learned Counsel for respondent no.2, on the basis of instructions from Mr. Irani, representative of respondent no.2 who is present in Court, has makes a statement that the respondent no.2 shall, as a humanitarian gesture, pay to the petitioners compensation in lieu of alternate accommodation at the rate of Rs.12,000/- (Rupees Twelve Thousand Only) per month until the issue of eligibility is decided. Further, if in case the petitioners are held as eligible, the respondent no.2 will grant them all the benefits under the SRA scheme. These statements are accepted as statements made to the Court.

7. The petition is disposed of in the aforesaid terms. There shall be no order as to costs.

8. All concerned to act on basis of authenticated copy of this order.

(M. S. SONAK, J.)