

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2335 OF 2016

Mrs. Naginadevi Kevat.] ... Petitioner

Versus

The State of Maharashtra and Ors.] ... Respondents

Mr. Angad Giri a/w Mr. Sagar Batavia for Petitioner.

Ms. Aparna Vhatkar, AGP for Respondent Nos.1, 2 and 3.

Mr. Hemant Mehta i/b Mehta & Co. for Respondent No.5.

CORAM :- M. S. SONAK, J.

DATE :- FEBRUARY 25, 2016

P. C. :-

1. For the reasons set out in Writ Petition No.2334 of 2016, even this petition deserves to be dismissed and is accordingly dismissed.

2. The petitioner claims to have purchased suit structure no.75 from one Mr. Subhash Vasudev Machkar on 14/11/2008. In Annexure II, however, instead of indicating the petitioner's name as eligible occupant, it appears that the name of Mr. Subhash Machkar came to be indicated. In this regard, the petitioner has already raised a dispute and the petitioner's Appeal No.80 of 2015 is already pending before the Additional Collector. The learned Counsel for petitioner contends that pending the resolution of such dispute, the petitioner

cannot be ordered to be evicted. He further submits that there has been no compliance with the principles of natural justice and fair play insofar as the petitioner is concerned.

3. There is no merit in either of the submissions. The dispute with regard to eligibility will only determine as to whether Mr.Subhash Machkar or the petitioner will obtain the permanent alternate accommodation by way of rehabilitation. For that reason, the petitioner cannot insist upon continuing in the suit structure. Such continuance has affected further development of the property. On the basis of the existence of the suit structure, full occupancy is withheld in respect of the permanent rehabilitation building already constructed by the respondent no.5. Besides, in this petition, the petitioner has not even chosen to implead Mr. Subhash Machkar as a respondent. Notice was rightly issued to Mr. Subhash Machkar since the Annexure II indicates his name as eligible occupant. In any case, the petitioner has filed an appeal against the eviction order in respect of structure no.75. The only defence which the petitioner has, is that eviction should not be ordered until the resolution of dispute between herself and said Mr. Subhash Machkar. In the facts and circumstances of the present case, this is hardly any defence. There is sufficient compliance with the principles of natural justice and fair play.

4. For the aforesaid reason and also the reasons set out in companion Writ Petition No.2334 of 2015, this petition is dismissed. There shall be no order as to costs.

5. In the facts and circumstances of this case, the Additional Collector is directed to dispose of Appeal No.80 of 2015 as expeditiously as possible and in any case, within a period of three months from today. The Additional Collector should also consider making the appropriate in the matter of deposit of compensation in lieu of temporary alternate accommodation by the respondent no.5, so that such compensation can ultimately be paid to the party who is finally held to be eligible in the matter. Such order may be made after giving appropriate notice to Mr. Subhash Machkar.

(M. S. SONAK, J.)