

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6066 OF 2016
FROM
APPEAL NO. 341 OF 2016

Smt. Mithilesh S. Shukla

.. Petitioner

vs.

Dy. Collector (Enc/Rem) and ors.

.. Respondents

Mr. J. N. Jayale for the Petitioner.

Mr. A.R. Metkari, AGP for the State.

Mr. Aditya Shirdodkar i/b I.C. Legal for Respondent No.4.

CORAM : M. S. SONAK, J.

DATE : 15 JUNE 2016.

P.C. :-

1] Heard learned counsel for the parties.

2] After this matter was heard for some time, learned counsel for the petitioner and respondent no.4 have submitted that this petition can be disposed of with the following agreed order:-

a] The petitioner may, if she chooses to, challenge the original LOI dated 16 November 2010 and revised LOI dated 5 December 2014 before the appropriate authority. Such challenge if instituted, to be decided by the authority, on its own merits and in accordance with law. All contentions of all parties are expressly kept open;

b] The petitioner may, without prejudice to the aforesaid challenge, file appropriate proceedings before the Deputy Collector (Encroachment) – respondent No.1 for determination of her eligibility to avail the benefits of slum redevelopment scheme. The petitioner states that such proceedings will be instituted by her within a period of four weeks from today. Such proceedings are directed to be disposed of by the Deputy Collector (Encroachment) – respondent No.1, as expeditiously as possible and in any case within a period of six months from today. The Deputy Collector (Encroachment) – respondent No.1 shall decide on the issue of eligibility on its own merits and in accordance with law, without being influenced by the circumstance that the petitioner may have challenged the LOIs as aforesaid. The issue of eligibility shall be decided without being influenced by the order dated 28 March 2016 as well. All contentions of all parties are expressly kept open.

c] In case, the petitioner is declared eligible by the Deputy Collector (Encroachment) – respondent No.1 or such other authority or forum, the petitioner will be entitled to the benefits of slum rehabilitation scheme, in accordance with law.

Respondent No.4 agrees to extend the same to the petitioner, accordingly.

d] Respondent No.4 shall pay a sum of Rs.2,40,000/- to the petitioner within two weeks from today (i.e. at the rate of Rs.20,000/- per month for the period of twelve months) towards compensation for temporary accommodation. It is clarified by the counsel for respondent No.4 that such payment is without prejudice and made purely on humanitarian considerations. It is also made clear that in case the petitioner fails to prove her eligibility within a period of twelve months from today, respondent No.4 shall not be liable to pay any further amount to the petitioner. However, even if the petitioner is adjudged as ineligible, respondent no.4 will not seek any refund of amount of Rs.2,40,000/- as aforesaid.

3] The learned counsel for the petitioner petitioner states that the petitioner's structure was demolished on 13 June 2016. This position is confirmed by the learned counsel appearing for respondent No.4. In these circumstances, in case any articles belonging to the petitioner, are lying with the Deputy Collector

(Encroachment) – respondent No.1, then the respondent No.1 is directed to return the same to the petitioner within a period of one week from the date of production of authenticated copy of this order.

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

5] All concerned to act on the basis of authenticated copy of this order.

(M. S. SONAK, J.)

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