

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION (ST) NO. 15281 OF 2016

Laxmi Vishnu Morya & Others

....Petitioners

V/s.

Addl. Collector (Enc) & Ors.

....Respondents

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Mr. Amrut Joshi i/by. Mr. P.R. Yadav, Advocate for the petitioners.

Mr. P.K. Dhakephalkar, Senior Advocate i/by. I.C. Legal, Advocate for respondent no.4.

Mr. S.D. Rairikar, AGP for respondents no.1, 2 and 6.

Coram :- Smt. R.P. SondurBaldota, J.**7th June, 2016.****P.C. :-**

1). Mentioned. Not on board. The papers of the petition have been produced at the instance of the petitioners on the ground of extreme urgency. The 15 petitioners are occupants of a Chawl situate at Plots No.94, 95, 96 to 99 and 100 to 103 at Vile Parle, Mumbai. They are members of respondent no.5, Sai Durga Co-operative SRA Co-operative Housing Society Ltd. By the Notification dated 17th January, 2008 the area in which the chawls of the petitioners are situate, has been declared as "Slum" and the same is being redeveloped by respondent no.4 pursuant to the LOI for the slum rehabilitation scheme granted by respondent no.3 in the year 2010. The petitioners were, in the year 2011, served with eviction notices as they had not been co-operating with respondents no.3 and 4 for the purpose of redevelopment. Those notices

were kept in abeyance on account of pendency of some proceedings.

2). Later, on 29th December, 2015 respondent no.4, Developer requested respondent no.2 to start proceedings under Section 33A or 33/38 of The Maharashtra Slum Areas (Improvements, Clearances and Rehabilitation), Act. Respondent no.2, then issued notices dated 12th January, 2016 to the 22 slum dwellers including the petitioners mentioned in the request as non-co-operative members of respondent no.5. After hearing the parties, respondent no.2 passed order dated 28th March, 2016 directing the petitioners to vacate their respective structures in 10 days. The petitioners challenged the order before respondent no.1, the Additional Collector (Encroachment/Removal), Western Suburbs, by way of appeal.

3). During the hearing of the appeal, respondent no.1 gave directions to respondent no.4 to open a bank account and deposit the amount of transit rent for the 22 slum dwellers in respect of whom the proceedings were taken. On compliance with the direction, he passed a detailed reasoned order dated 28th March, 2016 confirming the order of respondent no.1 and dismissing the appeals. The petitioners claim that, they obtained certified copy of the order on 26th May, 2016. Respondent no.2 then, served notices dated 4th June, 2016 upon the petitioners calling them to vacate their respective structures within 48 hours. Thereafter, on 6th June, 2016 the petitioners filed the present petition.

4). By the petition, the petitioners seek, (i) writ of mandamus for setting aside the SRA Scheme and the LOI dated 16th November, 2010, (ii) quash the orders passed by respondent no.2 and respondent no.1 under Section 33 and 38 of the Slum Act, (iii) direction to respondent no.4 to construct rehab building as per the plans approved on 11th February, 2015 before shifting the petitioner, (iv) cancel Annexure-II and

slum plan submitted by respondent no.3 in the office of respondent no.2, and (v)take appropriate action of registering criminal proceedings against respondent no.4, concerned administrative officials, department, hutment dwellers and Government of Maharashtra. The fifth relief at prayer (e) is absolutely vague and hence cannot be granted. The third prayer at prayer (c), is inconsistent and contradictory to the first and the fourth prayer at prayers (a) and (d). Prayer clause (b) is for quashing of the eviction orders.

5). The petitioners have made several serious allegations as regards the Slum Rehabilitation Scheme, to challenge the same. However, as has been rightly pointed out by Mr. Dhakephalkar, the learned Senior Counsel appearing for respondent no.4, none of those allegations can be gone into the present petition since there is a specific remedy available to the petitioner of approaching the High Power Committee appointed for the very purpose. The petitioners, though have been complaining about the redevelopment scheme for the last more than 5 years have not taken any concrete steps towards challenging the scheme. In the absence of any such challenge, they cannot be permitted to raise any grievances regarding the eviction notices. Mr. Dhakephalkar, also states on instructions, that around 65 occupants have already vacated their respective structures and other occupants, except for the petitioners herein have been co-operating and that respondent no.4, expects them to vacate their respective premises within a short time. In the circumstances, there is no merit in the petition. Hence, the petition is dismissed.

(SMT. R.P. SONDURBALDOTA, J)