

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6234 OF 2016

Pannalal Jawaharmal Gehlot

..... Petitioner

V/s

The State of Maharashtra & Ors.

..... Respondents

Mr. Rajaram V. Bansode for the Petitioner.

Mrs. M.P. Thakur, SGP for Respondent No.1.

Ms. Shyamali Gadre a/w Mr. Ankit Kulkarni and Mr. Abhijit Deshmukh i/b
M/s. Little & Co. for Respondent No.2.

Mr. M.S. Deshpande, Court Receiver, High Court, Bombay.

CORAM : A.S. OKA &

A.A. SAYED, JJ.

DATED : 14 JUNE 2016

ORDER:

1 Not on Board. Taken on Board.

2 Heard the submissions of the learned Counsel appearing for the
Petitioner and the learned Counsel appearing for the Respondent No.3-
Maharashtra Industrial Development Corporation (MIDC). Our attention
is invited to the judgment and order dated 10 December 2015 passed by
this Court in Writ Petition Nos.12195 of 2015 and 12198 of 2015. The

Writ Petition No.12198 of 2015 was in relation to Building Moreshwar Apartment constructed at Digha (East), Navi Mumbai. The present Petitioner was one of the Petitioners in the said Writ Petition wherein the challenge was to the notice issued under sub- section (1) of section 53 of the Maharashtra Regional and Town Planning Act, 1966. As there was no dispute that the building was completely unauthorized which consists of ground plus three floors, the Petitioner along with the other occupants gave solemn undertakings to this Court in the said Writ Petition to vacate the premises in their respective possession by 31 December 2015. They agreed for appointment of the Court Receiver, High Court, Mumbai as a Receiver. Accordingly, the Writ Petitions were rejected by appointing the Court Receiver and by accepting the undertakings of the Petitioners. This Court directed that in the event of the failure of the Petitioners to vacate the premises in their respective possession and hand over possession to MIDC on or before 31 December 2015, the Court Receiver shall take forcible possession of the premises.

3 By this substantive Petition, the Petitioner is praying for extension of time to vacate the premises till the end of October 2016. The Petitioner is seeking the said extra-ordinary relief though the order dated 10 December 2015 has become final only on the ground of the ailment suffered by the present Petitioner. He is relying upon various documents,

and medical reports for showing his health condition. He has also tendered certain additional documents. The Petitioner has tendered an undertaking stating that he will vacate the premises and hand over the same to the Court Receiver on 30 October 2016. He has given an undertaking that he will not claim any benefit of any policy of the Government whether in the form of a legislation or otherwise for regularization of the unauthorized constructions. We have perused the documents annexed to the Petition as well as the documents tendered across the bar yesterday. Perusal of the documents annexed to the Petition and in particular report of MRI brain show that the Petitioner suffered from a serious ailment and he continuous to be under medical treatment. In normal course, the Petitioner would not have been entitled to any indulgence especially when he has taken the flat with the knowledge that the building is constructed illegally. Only in view of the ailment suffered by the Petitioner and only in the light of the undertaking dated 13 June 2016 tendered on record on 13 June 2016 which is marked as 'X-2' for identification that we are willing to show indulgence to the Petitioner.

- 3 Accordingly, we dispose of the Petition by passing following order:
- i) Undertaking dated 13 June 2016 of the Petitioner marked as "X-2" is accepted;

- ii) In view of the undertaking, we direct that the Petitioner and his family members named in the undertaking shall not be dispossessed from the Room No.106 of Moreshwar Apartments, more particularly described in the undertaking till 30 October 2016;
- iii) If the Petitioner fails to hand over vacant and peaceful possession of the said Room No.106 to the Court Receiver on or before 30 October 2016, the Court Receiver shall forcibly evict the Petitioner and/or all other persons found in Room No.106 and take forcible possession thereof, if necessary, with the police assistance.
- iv) All concerned to act upon an authenticated copy of this order.

(A.A. SAYED, J.)

(A.S. OKA, J.)

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