

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12516 OF 2015

M/s. Drishti Developers

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Mr. A. R. Mishra, for the Petitioner.

Mr. S. D. Rayrikar, AGP for the Respondent No.1.

CORAM : R.M. SAVANT, J.

DATE : 31st MARCH 2016

PC.

1. The writ jurisdiction of this Court is invoked against the order dated 19.11.2015 passed by the Additional Collector (Encroachment/Removal), Western Suburbs, by which order the Appeal filed by one Mr. Jamesh Natakari, Mr. Narsim L. Natakari and Mr. Narsappa Odhla came to be dismissed and resultantly, the order dated 27.02.2015 passed by the Deputy Collector (Encroachment/Removal), Competent Authority Western Suburbs came to be confirmed.

2. The proceedings in question were initiated against the said three persons under Section 3Z(2) of the Maharashtra Slum (Improvement, Clearance & Redevelopment) Act, 1971, (For short "the

Slum Act”) in view of the fact that the Competent Authority found three unauthorized structures on the land in question wherein the Slum Redevelopment Scheme has been implemented by the Petitioner. It is an undisputed position that the said three persons have not produced any document to show that they were in occupation of the structures prior to 01.01.2000. The Petitioner herein who is the developer concerned with the said redevelopment scheme being implemented on the lands in question which are mentioned in the opening paragraph of the order passed by the Competent Authority filed a reply to the notice issued under Section 3Z(2) of the Slum Act and in the said reply it was the case of the Petitioner that the said structures were being used for providing residence to the labour working on the site. Though the reply was filed, it seems that the said contention was not taken into consideration by the Competent Authority. The said contention however has been taken into consideration by the Appellate Authority i.e. the Additional Collector (Encroachment/Removal). The Appellate Authority did not countenance the said contention as the Appellate Authority came to a conclusion that it is in the absence of any proof pre-dating 01.01.2000, the said structures were illegal. The Appellate Authority has also observed that in view of the fact that old electricity connection was being continued to be used by the said three structures, the occupants of the rehab building were deprived of the

electricity connection by the distribution company. The Appellate Authority has accordingly dismissed the Appeal. In my view, having regard to the findings recorded by the Authorities below, no case for interference in the writ jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

3. However, since the Petitioner is the developer who is implementing the said Slum Redevelopment Scheme and since the Learned Counsel Mr. A. R. Mishra appearing for the Petitioner on instructions makes a statement that the Petitioner would remove the structures within two weeks from date i.e. on or before 15.04.2016. This Court deems it appropriate to extend the time of removal of structures till 15.04.2016 on the undertaking being filed on behalf of the Petitioner to the said effect in this Court within one week. If the undertaking is not filed as stipulated by the instant order or in the event the structures are not removed by 15.04.2016, then the Authorities would be free to take action against the structures including their demolition in accordance with law.

[R.M. SAVANT, J]