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IN THE HIGH COURT OF JUDICATURE AT MUMBAI
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 1323 OF 2014

M/s.Grace Erectors

.. Petitioner

Vs.

Slum Rehabilitation Authority and others

.. Respondents

Mr.Sanjay Kadam i/b M/s.Kadam and Company, Advocate for the Petitioner.

Mr.Jagdish G.Aradow (Reddy), Advocate for Respondents No. 1 & 2.

Mr.Swati Sawant i/b M/s.S.K.Legal Associates, Advocate for Respondent No.3.

Mr.Harinder Toor a/w Mr.Arun Kumar i/b M/s.Arun Kumar & Associates, Advocate for Respondent No.5.

Mr.H.C.Pimple, Advocate for B.M.C.- Respondent No.6.

Mr.Harsing S.Pardeshi, Colony Officer, F/North Ward is present.

**CORAM : S.C.DHARMADHIKARI &
A.A.SAYED, J.J.**

DATED : 10th MARCH, 2016.

P.C.

. Yesterday, we had passed an order after hearing both sides. However, Mr.Toor, appearing on behalf of the affected slum dwellers and Mr.Pimple both insisted the Court to place the matter today. Thus, with the consent of all the parties, we recall the oral order passed yesterday.

2. We have heard Mr. Kadam, appearing for the petitioner, Mr. Pimple, appearing for the Municipal Corporation of Greater Bombay and Mr. Reddy, appearing on behalf of the Slum

Rehabilitation Authority. We have also heard Mr. Toor, appearing for respondent No.5. These are the real contesting parties.

3. After hearing them, what we found was that the issue of Competent Authority to initiate due process of law is resolved. The statutory authority has now stated before us that the Assistant Commissioner, F/North ward of the Municipal Corporation of Greater Bombay will issue the requisite notices to all such members/occupants represented by respondent No.5 within a period of 4 weeks from today. Upon receipt of such notices, it would be open for the recipients of such notices to file their responses/replies. That be filed by all of them within 4 weeks from the date of the receipt of the notices.

4. After such replies are filed within the above period, the Assistant Commissioner who is designated as the Competent Authority under section 33 of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (for short 'Slum Act') shall pass a speaking order within a period of 3 months from the date of the conclusion of the hearing before him. We clarify that this Court has not gone into the merits of the controversy between the developer and respondent No.5. Once we have ensured that due process of law will be followed by all, particularly statutory authority, then writ petition need not be kept pending. It is disposed of.

5. However, we clarify that the respondent No.5 or developer shall not raise the issue of competency and jurisdiction of the Assistant Commissioner, F/North Ward of the Municipal Corporation of Greater Bombay to issue notice and pass the requisite order.

6. Further, any aggrieved party is free to resort to appellate remedy under section 35 of the Slum Act.

7. We also clarify that the time to file replies to the show cause notices under section 33 of the Slum Act will not be extended under any circumstances and if no replies are filed within 4 weeks, the right to file the same of the recipients to stand forfeited.

8. We also clarify that once the area is cleared finally by removal of the obstructing and impeding structures then, a portion thereof meant for construction of a road shall be handed over to the Municipal Corporation of Greater Bombay by all concerned including the developer.

(A.A.SAYED, J.)

(S.C.DHARMADHIKARI, J.)