

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 1754 OF 2016

Mr. Hamid Ali Abbas Ali Khan	}	
and Ors.	}	Petitioners
versus		
Chief Officer,	}	
Mumbai Building and Repairs and	}	
Reconstruction Board and Anr.	}	Respondents

Mr. Moinuddin A. Khan for the petitioners.

Mr. Vaibhav M. Parshurami for respondent no. 1.

Mr. Sanjay Jain with Mr. Mohammad Akram Bastivi for respondent no. 2.

**CORAM :- S. C. DHARMADHIKARI &
B. P. COLABAWALLA, JJ.**

DATED :- OCTOBER 6, 2016

P.C. :-

1. The petitioners in this petition have sought a writ of mandamus or any other writ, order or direction in the nature thereof directing respondent no. 1 to cancel a no-objection certificate issued on 17th April, 2009 in respect of a property, more particularly described in prayer clause (a) of the writ petition. By prayer clause (b), there is a direction claimed for reconstructing a new building on the subject plot for use of the tenants. That obligation, according to the petitioners, has to be

discharged by respondent no. 1. Then, it is prayed in prayer clause (c) that respondent no. 1 shall ensure restoration of possession of the petitioners in reconstructed new building on the subject plot under its supervision. That means, the whole project should be executed under the supervision of respondent no. 1. That is the ambit of prayer clauses (c) and (d).

2. Mr. Khan appearing for the petitioners does not seek any relief, particularly of cancellation of the no-objection certificate and insists that the petitioners are interested in expeditious reconstruction at the site so that they are housed in a new building, which is a decent housing accommodation.

3. Since prayer clauses (b), (c) and (d) are pressed and there is an affidavit filed in reply by respondent no. 2 denying all the allegations in the petition and equally asserting that the petitioners have not handed over possession of the premises in their use and occupation, that there was no agreement to pay any compensation in lieu of transit accommodation at the rate of Rs.15000/- per month, we are of the opinion that these are all disputed questions of fact. We are of the further opinion that in the given situation, interest of justice would be served if the writ petition is disposed of with a direction to respondent no. 1 to examine all the grievances of the petitioners in relation to (i) non

payment of the monthly compensation in lieu of a transit accommodation and (ii) early completion of the project only under supervision of the Mumbai Building Repairs and Reconstruction Board.

4. The Chief Officer should consider all these grievance of the petitioners and at a hearing to be conducted and held by him. He shall also allow respondent no. 2 to remain present at such hearing. The Chief Officer shall pass a reasoned order based on the statutory records and documents in relation to this project in his custody and possession/on the file of the Board. We direct that no further documents other than the above shall be produced by parties. If there was any oral understanding and to pay enhanced compensation as claimed by the petitioners now, then, the petitioners can rely upon any minutes of such oral meeting, if at all held, in the office of the Chief Officer. Beyond all this, nothing shall be allowed to be produced before the Chief Officer. The Chief Officer shall take an expeditious decision and we grant him three months' time for that purpose. The writ petition is disposed of in these terms.

(B.P.COLABAWALLA, J.) (S.C.DHARMADHIKARI, J.)