

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

WRIT PETITION NO.1812 OF 2015

Ashfaq Husain Shaikh	Petitioner
versus	
Slum Rehabilitation Authority and others	Respondents

Mr.Ezaz Nadri with Mr.Vinod Kumar B. Singh for Petitioner.

Mr.S.P.Thorat for Respondent no.1.

Ms.Madhubala Kajale, AGP for Respondent no.2 State.

Mr.Chirag Bulsara with Ms.Asha Nair i/by M/s.Diamondwala & Co. for Respondent no.5.

Mr.Abhishek Tripathi with Mr.Rui Rodrigues for Respondent no.7.

CORAM : S.C.DHARMADHIKARI AND
G.S.PATEL, JJ.

DATE : 10 February 2016

PC :

1. Having heard both sides and perusing the affidavits, we are of the view that the disputed question about width of the Nallah cannot be resolved in writ petition.

2. The State of Maharashtra on an affidavit filed by the Deputy Collector, Encroachment Removal, Western Suburbs (Respondent no.2) has stated that the nallah was measured for its width. There was a complete survey carried out. The survey report, details of which are mentioned, states that the width of

the nallah varies from 3.30 meters to 6.24 meters with depth of approximately 1 meter. The survey report and the affidavit indicates that the nallah was found open to sky in the entire stretch surveyed by the surveyor. There was no obstruction.

3. We cannot disbelieve such a statement and coming from the Additional Collector, that too based on a survey. We do not wish to enter into disputed territory and the Petitioner, if has any grievance about nallah and its width being reduced by some act of a private party, then nothing prevents him from approaching competent Court or forum with appropriate proceedings. We cannot in writ jurisdiction decide highly disputed issue regarding the width and depth of nallah.

4. The writ petition is, therefore, dismissed. No order as to costs.

(G.S.PATEL, J.)

(S.C.DHARMADHIKARI, J.)