

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 1783 OF 2016**

Saeeda Bani Mobin Mohammad

..Petitioner

Vs.

The State of Maharashtra & Ors

..Respondents

WITH

WRIT PETITION (L) NO. 1784 OF 2016

Mohammad Asif Mobin Mohammad

..Petitioner

Vs.

The State of Maharashtra & Ors

..Respondents

Mr. S. P. Nalavade for the Petitioner

Mrs. Jyoti Chavan AGP for the Respondent Nos.1 and 2

**Mr. Yashodeep Deshmukh a/w Mr. Mahesh Mishra i/b Mr. Ravi Thankaiaian
for the Respondent No.3**

CORAM : R. M. SAVANT, J.

DATE : 6th SEPTEMBER, 2016

P.C.

1 The above Petitions take exception to the communication dated 23-6-2016 addressed by the Deputy Collector (Encroachment / Removal) Western Suburbs and Competent Authority Bandra. By the said communication the Petitioners have been informed that they have to remove the structure in question as otherwise the same would be removed by the authorities and the costs for the same would be recovered from the Petitioners. In the said communication the orders passed by the Competent Authority as also the

order passed by the Appellate Authority i.e. the Additional Collector (Encroachment / Removal) Western Suburbs dismissing the Appeal, has been referred to. The said communication draws the Petitioners attention to the fact that the Petitioners would have to take recourse against the said orders passed by the Competent Authority as well as the Additional Collector. The said orders passed by the Competent Authority i.e. the Deputy Collector (Encroachment / Removal) and the Appellate Authority i.e. the Additional Collector (Encroachment / Removal) Western Suburbs are under Section 33 and 35 of the Slum act wherein the notice issued to the Petitioner under the said provisions for removal of their structure as the same is impeding the implementation of the Slum Rehabilitation Scheme being implemented on the plot of land in question, has been confirmed.

2 The Petitioners above named have been declared ineligible for allotment of permanent alternate accommodation in the Slum Rehabilitation Scheme being implemented by the Respondent No.3 herein. The Learned Counsel appearing on behalf of the Petitioner Mr. Nalavade states that the Petitioners have filed Appeals today i.e. 6-9-2016 which bear the Nos.707 of 2016 and 708 of 2016. If that be so, considering the fact that the eligibility of the Petitioners is required to be decided, it would be just and proper to direct the Additional Collector (Encroachment / Removal) to decide the said Appeals latest by 15-10-2016.

3 Since the Appeals filed by the other persons similarly situated as the Petitioners and having their structure on the same land on which the scheme is being implemented by the Respondent No.3 are coming up on 26-9-2016, the Appeals filed by the Petitioners may also be heard along with the Appeals filed by the other persons similarly situated in respect of whom orders have already been passed in Writ Petition (L) 1717 of 2016 i.e. Yasmin Bano Mohd Rafique Chaudhary Vs. Deputy Collector (E/R) & Competent Authority Bandra & Ors. and companion matters.

4 On behalf of the Respondent No.3 herein a statement is made by the Learned Counsel Mr. Deshmukh that in the event the Petitioners are declared to be eligible or any one of them is declared eligible by the Additional Collector (E / R) the Petitioners or any one of them who is declared eligible would be extended the same benefits as other eligible slum dwellers. Statement accepted. In the event, the Petitioners or any one of them is declared as ineligible, then he / they would be required to vacate the structure in terms of the order passed by the Appellate Authority i.e. the Additional Collector (E/R) to which order reference is made in the impugned communication. The same would undoubtedly be subject to further challenges as regards their ineligibility. It is clarified that if the Petitioners or any one of them on being declared eligible does not vacate the structure then he would

not be entitled to the transit rent from the Respondent No.3 till he vacates the structure.

5 With the aforesaid directions, the Writ Petitions are disposed of.

[R.M.SAVANT, J]