

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

WRIT PETITION (I) NO. 2422 OF 2016

Ansari Khurshida Khatun Salim & Anr. ..Petitioners

v/s.

The State of Maharashtra & Ors. ..Respondents

Mr. R.V.Singh for the Petitioner.

Mrs.Geeta Joglekar for the BMC.

Mr. Hemant Haryan, AGP for the State.

**CORAM : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI,JJ.
DATED : SEPTEMBER 19, 2016.**

P.C.

1. Heard learned Counsel for the petitioner. By this writ petition, the petitioners are seeking direction against the respondents restraining them from demolishing their premises being hut mentioned at serial Nos. 236 and 238 of Annexure II, 120 ft D.P Road, Juhu Lane, N.S.Phadke Marg, Andheri (W), Mumbai 58, pursuant to the notice dated 28.6.2016 issued under Section 314 of Mumbai Municipal Corporation Act.

2. We have gone through the impugned notice annexed at Exhibit

“C”. The same is issued on the basis of order dated 24.2.2015 passed by the Division Bench of this Court in PIL 95 of 2014. By the said order the High Court directed the Deputy Collector (RE)WS to decide eligibility of the affected structures falling within 120ft D.P Road and also directed MCGM to remove these structures.

3. The learned Counsel for the B.M.C. submitted that the petitioners' structureS comes within 120 ft of D.P.Road leading from S.V.Road to Gulmohar Road. It was also submitted that the petitioners' said structures came to be demolished several times. The petitioners however, reconstructed it again and again, and therefore are not entitled for any protection from this court. In support of the contention, learned Counsel for the BMC relied upon the averments made in the affidavit dated 11.8.2016, filed by Mr. Sanjay Borse, Asst. Engineer, K/West Ward, B.M.C.

4. Be that as it may, it is the case of the Corporation that the petitioners' structures cannot be protected and they are not entitled for any alternate accommodation and, therefore, not included in Annexure II. The petitioners have already challenged non inclusion of their names in Annexure II by filing appeal under Section 35 of the

Slums Act, and the same is pending. The only question is whether the petitioners' are entitled for alternate accomodation, which will depend upon the outcome of the appeal. In any case, since the petitioners' structures fall within 120 ft of the DP Road, same cannot be protected in the light of the order passed by the High Court dated 24.2.2015.

5. We are, therefore, not inclined to interfere with the petition. The same is accordingly dismissed. However, we direct the Appellate Authority to expedite the appeal filed by the petitioner under Section 35 of the Slums Act.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)