

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

WRIT PETITION (L) NO. 2684 OF 2015

Shaikh Abdul Karim Mohd. Hanif	}	Petitioner
versus		
The Deputy Collector (Enc/Rem)	}	
and Competent Authority	}	
and Ors.	}	Respondents

WITH
WRIT PETITION (L) NO. 2690 OF 2015

Shaikh Mohammad Hanif	}	
Abdul Aziz	}	Petitioner
versus		
The Deputy Collector (Enc/Rem)	}	
and Competent Authority	}	
and Ors.	}	Respondents

Mr. Girish Agarwal with Mr. Mangesh Patel for the Petitioners in both the Petitions.

Mr. J. G. Aradwad (Reddy) for Respondent No. 1 in both the Petitions.

Mr. Anil R. Mishra for Respondent No. 3 in both the Petitions.

Mr. Shaikh Abdul Karim Mohd. Hanif - Petitioner in WPL/2684/2015 present.

Mr. Shaikh Mohammad Hanif Abdul Aziz - Petitioner in WPL/2690/2015 present.

CORAM :- S. C. DHARMADHIKARI &
G. S. PATEL, JJ.

DATED :- JANUARY 21, 2016

P.C. :-

1) The Petitioners in these two Petitions, essentially aggrieved by the demolition of the old structures, have sought appropriate declarations. They want the Court to declare the action of demolition as invalid, illegal and ultra vires Article 14 of the Constitution of India.

2) Both the Petitioners are stated to be occupants of certain huts/slum like structures. In pursuance of a redevelopment scheme and which was put in place by the statutory authorities after issuing sanctions and approvals, it was expected from these Petitioners that they would vacate and hand over these slums in their possession for demolition. That is to enable Respondent No. 3 to redevelop the property and construct a building to rehabilitate the eligible slum dwellers at the site.

3) Since there was no co-operation, the authorities were approached and they passed the requisite orders under section 33 and 38 of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971.

4) On an earlier occasion, we ensured that the Petitioners were provided the same temporary or transit benefits as are extended by the Developer to other occupants who are eligible for identical benefits.

5) Therefore, on 18th November, 2015, a Division Bench of this Court raised certain pertinent queries and sought an affidavit from the contesting Respondent. The contesting Respondent not only filed an affidavit but brought in the Court the Demand Draft/Pay Order towards monthly compensation.

6) From the affidavit filed in reply by the Developer, it is evident that the Petitioner in Writ Petition (L) No. 2684 of 2015 Shaikh Abdul Karim Mohd. Hanif is eligible for residential structure and his name appears in the Annexure II.

7) The affidavit narrates that an agreement for permanent alternate accommodation has been signed with him. The Petitioner was called upon to collect the monthly compensation, but he declined to accept the transit rent.

8) The affidavit in rejoinder does not deny this factual position, but only seeks to correct an averment and statement in para 2 of the reply affidavit that the Petitioner is held eligible for commercial premises, whereas the Petitioner in fact is held eligible for residential premises.

9) After all this was brought to the notice of Mr. Agarwal and the Petitioner who is present in Court, it is accepted that the amount of monthly compensation is brought in Court and that the

individual agreement has been signed and executed with the Developer.

10) In such circumstances, in the presence of the Petitioner, who has identified himself, Mr. Agarwal seeks leave to withdraw the Writ Petition. Leave granted. The Writ Petition (WPL/2684/2015) is disposed of as withdrawn. All complaints and allegations made by the Petitioner are withdrawn.

11) With regard to Writ Petition (L) No. 2690 of 2015, the position is identical save and except that the Petitioner is Shaikh Mohammad Hanif Abdul Aziz. He is present in Court. He was not residing in the structure in question but was carrying on business from there. He would be, therefore, entitled and eligible for commercial structure in the developed building. That would be his permanent alternate commercial accommodation. An agreement individually signed by him being placed on record, similar leave is sought by Mr. Agarwal to withdraw this Petition as well. We grant leave in the present Petition (WPL/2690/2015) and dispose it of as withdrawn. All allegations and complaints of the Petitioner also stand withdrawn.

12) The Petitioners in both the Petitions, after identifying themselves, are entitled to withdraw the sum deposited in this

Court pro rata in terms of their respective entitlements to monthly compensation. Petitioner in WPL/2684/2015 shall be entitled to a sum of Rs.10,000/- per month whereas the Petitioner in WPL/2690/2015 shall be entitled to a sum of Rs. 12,000/- per month.

13) Mr. Mishra, on instructions from Respondent No. 3, states that hereafter the monthly compensation would be disbursed to these Petitioners by banker's cheques on the 15th day of each month, after the 11 month's period as stipulated is over. Mr. Mishra also assures the Court that in terms of the condition of the Letter of Intent, Respondent No. 3 would endeavor and complete the construction within two years from today. The statement is accepted.

14) There is one more condition which we wish to place in all such Petitions. When people living in slums are rehabilitated and placed in a better accommodation on a permanent basis, they are expected not to deal with and dispose of these accommodations to third parties to make a profit or benefit for themselves. It is their grievance and cry for a decent accommodation that has led the authorities to frame schemes for their rehabilitation free of cost. At no stage it is expected to confer a largess or undue benefit for them. It is to solve their

individual problems of housing that such measures are conceived and implemented. When disputes in relation to these structures and their occupancies are brought before the Court, the Court will expect them not to transfer their properties after they are handed over to them as permanent alternate accommodations for a reasonable duration, save and except with prior leave of authorities. We, therefore, direct that both the Petitioners who shall be placed in the permanent alternate accommodations will use the residential unit only to accommodate themselves and their families and will not induct any third parties therein. In commercial unit, none other than the eligible occupant and his family can carry on any business or commercial activity. They shall not transfer the same in any manner for a period of 10 years from the date they are handed over to them.

(G.S.PATEL, J.)

(S.C.DHARMADHIKARI, J.)