

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.2549 OF 2015

M/s. Gemini Developers	 Petitioners
Vs.	
The Additional Collector (Enc/Rem), Western Mumbai Suburbs & Others	 Respondents

Mr. S.U. Kamdar, Senior Counsel with Ms Deepa Pohnu and Ms Pratibha R. i/by M/s. J. Law Associates for the Petitioners.

Mr. M.A. Sayed, AGP, for the Respondent-State.

Mr. Jagdish G. Reddy (Aradwad) for Respondent No.2.

Mr. Bhushan V. Mahadik for Respondent Nos.3 to 12.

CORAM: S.C. DHARMADHIKARI &
DR. SHALINI PHANSALKAR JOSHI, JJ.

DATE : APRIL 18, 2016

P.C:

1. We have heard Mr. Kamdar, learned senior counsel appearing on behalf of the petitioners. We have also heard Mr. Mahadik, appearing for the contesting respondents.

2. After hearing them at length and perusing the

petition and the annexures thereto, we are of the clear opinion that the Leader of the Opposition in the Maharashtra Legislative Council had no business to take up the cause of those who have no right, title and interest in an immoveable property. Time and again, it is made clear by this Court that those who encroach, erect structures or shanties and continue to squat or reside on the land belonging to the State or to other public body have merely an opportunity to apply to rehabilitate themselves in terms of a scheme styled as Slum Rehabilitation Scheme. That Scheme has to be implemented in accordance with the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971. The petitioners have been appointed as Developers by a Co-operative Housing Society of the slum dwellers. Upon the requisite resolutions and decisions of the Society, they have obtained approvals and permissions from the Competent Authorities to develop the property. For that purpose, the area has to be cleared. A construction for the benefit of slum dwellers and eligible under the Scheme has to be carried out at the same site. Those eligible and ineligible must,

therefore, vacate their structures and remove themselves and if they do not, then there is a Competent Authority which can take measures in terms of Sections 33 and 38 of the said Act. After such measures were taken and the statutory authorities assisted the Developers and were about to physically remove those residing in the existing structures to facilitate the implementation of the Slum Rehabilitation Scheme that a Minister in the Government of Maharashtra and in-charge of Housing Department intervened to protect those who were ineligible or eligible and who have to vacate their structures to facilitate demolition. We do not see how the Minister could have intervened and in the manner done. We are surprised that a Minister in the State Government and Leader of the Opposition in the Legislative Council come to the rescue of above persons and take up their cause with such details as are now projected before us. In the circumstances, both these persons/authorities had no business to interfere with the lawful exercise of power by the statutory authorities and in terms of a statute enacted by the Competent Legislature. We do not countenance such

interference and hereafter we will not stop at merely deprecating this tendency but proceed to take such action as is permissible in law. For the present, we direct that all such interventions should be ignored by the statutory authorities and police officials and they must carry out the requisite demolition and as necessary for implementation of the Scheme. Nobody should be permitted to interfere in the work of all these authorities. The writ petition filed by the Developers is disposed of in the above terms. No costs.

(DR. SHALINI PHANSALKAR JOSHI, J.)

(S.C. DHARMADHIKARI, J.)