

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2948 OF 2017**

Mr. V. R. Somarajan

..Petitioner

Vs.

The State of Maharashtra & Ors

..Respondents

Mr. R.C. Mishra for the Petitioner

Mrs. V. S. Nimbalkar AGP for the Respondent Nos.1 to 3

Mr. Sanjay Jain a/w Mr. Sunil Badsiwal i/b Legal Pyramids for the Respondent No.4

CORAM : R. M. SAVANT, J.

DATE : 16th MARCH, 2017

P.C.

1 The notice dated 3-3-2017 issued by the Deputy Collector (Encroachment & Removal) and Competent Authority, Andheri – 2, directing the Petitioner to remove himself from the site in question, is taken exception by way of the above Petition.

2 The said letter/ notice has its basis in the order dated 16-3-2016 passed by the Deputy Collector (Encroachment and Removal) and Competent Authority i.e. the Respondent No.2 herein which is an eviction order directing the eviction of the Petitioner from the site in question. The Petitioner has not chosen to file an Appeal against the said order dated 16-3-2016. The said order came to be passed by the Deputy Collector (Encroachment and Removal) and Competent Authority in view of the fact that the Petitioner's structure was

impeding the implementation of the Slum Rehabilitation Scheme which is being implemented by the Respondent No.4 herein for the Respondent No.5 society, which is a society of the slum dwellers. It seems that the Petitioner has been declared as an ineligible slum dweller in terms of Annexure-II which has been published by the Deputy Collector (Encroachment and Removal) and Competent Authority.

3 In so far as the order dated 16-3-2016 is concerned, there can be no dispute about the fact that the Petitioner's structure is impeding the implementation of the Slum Rehabilitation Scheme. The Petitioner has not challenged the said eviction order by filing any Appeal but has directly approached this Court. The Learned Counsel appearing on behalf of the Respondent No.4 Mr. Jain on instructions makes a statement that since the Appeal filed by the Petitioner against his ineligibility is pending before the Respondent No.3 who is the Appellate Authority. The Respondent No.4 would pay the Petitioner the transit rent up to August 2017 so as to facilitate the Petitioner to make alternate arrangements for his residence. The Learned Counsel further states that the Appellate Authority may be however directed to decide the Appeal within a particular time frame.

4 Since the Petitioner has now no right to retain his structure on the land in question in view of the order dated 16-3-2016 passed by the Deputy

Collector (Encroachment and Removal) and Competent Authority, Andheri, the said order is not interfered with by this Court. However, the Petition is disposed of by issuing the following directions:

- (i) The Petitioner would vacate the structure in question within one week from date.
- (ii) The Respondent No.4 to handover the cheque for the transit rent up to August 2017 i.e. the sum of Rs.80,000/- today itself to the Petitioner. The Petitioner may collect the said cheque from the Advocate on record to whom the cheque would be sent by the Respondent No.4 during the course of the day.
- (iii) If the Petitioner does not vacate the structure after the period of one week is over, the authorities would then be free to evict the Petitioner by such measures as are required to be taken.
- (iv) The Appellate Authority i.e. Additional Collector (Encroachment / Removal) is directed to hear and decide the Petitioner's Appeal against his ineligibility latest by 31-7-2017 by taking into consideration the documents produced by the Petitioner.

(v) The Petitioner to appear before the Appellate Authority on 11-4-2017 when the matter is already slated to come up before the Additional Collector (Encroachment / Removal). The Additional Collector may thereafter fix the schedule as per his convenience, but decide the Appeal within the time frame stipulated by the instant order.

(vi) In the event, the Petitioner is declared as eligible by the Appellate Authority, then the Petitioner would be entitled to the same benefits as the other eligible slum dwellers.

5 With the aforesaid directions, the Writ Petition is disposed of.

[R.M.SAVANT, J]