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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 6970 OF 2016

Mrs. Sushila Rambahadur Roy

...Petitioner

Vs.

The Kalyan Dombivali Mahanagar Palika & Ors.

...Respondents

Mr. Sanjay C. Prabhu, Advocate for the Petitioner

Mr. A.S. Rao, Advocate for Respondent Nos. 1 to 3

CORAM : B.R.GAVAI &

M.S. KARNIK, JJ.

DATED: 14TH AUGUST, 2017

ORDER: [PER SHRI M.S. KARNIK, J.]

1. The Petitioner by this Petition challenges the order dated 4th March 2013 passed by the Respondent Corporation refusing to allot her a permanent alternate accommodation in the locality where her structure was situate. As per the contention of the Petitioner she purchased an independent structure from one Bhika Dagdu Pathare in the year 1983. In the year 2003 the Respondent Corporation issued a notice dated 29th August 2003 calling upon the Petitioner to produce documentary evidence regarding the ownership of the suit structure. The

Respondent Corporation pursuant to the scheme named Basic Urban Poor Rehabilitation (BSUP for short) under the JNNURM prepared a list of eligible candidates in the year 2003. The proposed BSUP scheme came to be implemented for the said area. The Scheme was confirmed in the year 2008. In the year 2008 the Petitioner received compensation from Respondent No.3 for the temporary alternate accommodation under the BSUP scheme. The compensation which is received was to the tune of Rs.10,000/- and the same was received on 11th February 2009. The Petitioner's husband was allotted an alternate independent accommodation in the same locality under the said scheme. The case of the Petitioner is that she is also entitled to an alternate independent accommodation in lieu of her existing structure under the said scheme.

2. Learned Counsel for the Petitioner contends that the relations between the Petitioner and her husband were strained since last 10 to 12 years prior to the filing of the Petition for dissolution of marriage by mutual consent. However it is only in the year 2011 that she filed the Petition for dissolution of

marriage before the Civil Judge (S.D.) Kalyan. The learned 2nd Joint Civil Judge (S.D.) Kalyan was pleased to pass a decree of dissolution of marriage by mutual consent on 21st December, 2011. It is the contention of the Petitioner that she is entitled to an alternate independent accommodation since she is residing separately from her husband.

3. Learned Counsel for the Respondent pointed out that by a policy dated 27th April 2011 a decision has been taken whereby the beneficiary husband and wife will be allotted only one structure. However if there is divorce between the husband and wife prior to the conducting of the survey then they would be entitled to alternate separate accommodation. Admittedly the survey was conducted in the year 2003. The decree of divorce is of the year 2011. Though the Petitioner has challenged the policy we do not find the decision of the Respondent illegal or unreasonable.

4. It is not in dispute that the Petitioner's husband has been allotted an alternate accommodation under the scheme being

flat No.112 in Building No.4. The survey was conducted in the year 2003. The Petition for dissolution of marriage by mutual consent was filed only in the year 2011. The same was as and by mutual consent and was not based on any other ground. There is thus every reason to believe that the divorce proceedings have been filed only with a view to get the benefit of additional premises over and above the Petitioner's entitlement.

5. In this view of the matter we are not inclined to grant the reliefs prayed for in this Petition. The Petition is therefore dismissed with no orders as to cost.

(M.S. KARNIK, J.)

(B.R.GAVAI, J.)