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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL PUBLIC INTEREST LITIGATION NO.33 OF 2016**

Mr. Prabhu Devandas Chauhan	... Petitioner
Vs.	
The Municipal Commissioner and Ors.	... Respondents

Mr. Jamshed Ansari for the Petitioner.
Dr. Ranjeet Thorat, Senior Advocate a/w Ms. Surekha Sonawane for the Respondent Nos.1 and 2.
Ms. M.H. Mhatre, APP for Respondent Nos.3 and 4.
Mr. Vishal Kava for Respondent No.5.

**CORAM : A.S. OKA &
ANUJA PRABHUDESSAI, JJ.**

DATE : 5th JANUARY, 2017

PC.

1 Heard the learned counsel appearing for the Petitioner. The grievance in this PIL is as regards the allotment of residential premises by the Mumbai Municipal Corporation to the Respondent Nos.5 to 10. The submission of the learned counsel appearing for the Petitioner is that none of the structures occupied by the aforesaid respondents were in existence prior to datum line i.e. 17th April, 1964 and hence, the Municipal Corporation could not have allotted residential accommodation to the said respondents. His submission is that as some of the said respondents are occupants of private properties, the

Municipal Corporation could have always taken recourse to the proceedings for compulsory acquisition and taken possession of the private property. He would, therefore, urge that investigation is called for as regards action of the Mumbai Municipal Corporation of allotment of permanent accommodation to the aforesaid respondents.

2 We have given careful consideration to the submissions. We have perused the annexures to the Petition. The order of allotment dated 31st July, 2010 issued to the Respondent No.5 is Exhibit – B to the Petition. The order of allotment records that the said respondent was occupying a municipal tenement. As he agreed to vacate the municipal tenement, alternate accommodation was allotted to Respondent No.5 under 10% reservation scheme for rehabilitation as per Development Control Regulations (DCR). The letters of allotment to the other respondents have been also annexed as Exhibits B-2 to B-6. These letters of allotment rely upon policy of allotment of permanent alternate accommodation under 10% reservation scheme for rehabilitation as per the DCR. Even the orders of allotment issued to the Respondent Nos.6 to 10 record that the concerned respondents have agreed to vacate the municipal tenements in their possession.

3 Even assuming that the Respondent Nos.5 to 10 were occupying the structures on private properties, as they agreed to vacate their respective tenements to enable the Municipal Corporation to implement projects, alternate accommodation has been provided to the said respondents. In fact, the averments in paragraph 3(b) of the Petition show that the structures occupied by the said respondents were needed for road widening scheme undertaken by the Municipal Corporation.

4 Recourse to compulsory acquisition can be very costly and time consuming. Therefore, there are various policies of the Mumbai Municipal Corporations under which a provision has been made for rehabilitation of the project affected persons.

5 We fail to understand as to how this Petition is filed in public interest. There is absolutely no merit in the Petition and accordingly, we dismiss the Petition. We, however, make it clear that we have made no adjudication on the issue of locus of the petitioner to maintain the present Petition.

(ANUJA PRABHUDESSAI, J)

(A.S. OKA, J)