

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 11220 OF 2014**

Mohd Kasim Shaikh Ajimulla & Ors. ..Petitioners

vs.

Maharashtra Housing and Area
Development Board and and Ors. ...Respondents

Mr. Mihir Desai a/w Ms. Manjiri Sharad Parsnis for the petitioners.

Mr. Arshil Shah for respondent no. 2

Mr. P.GH. Lad a/w Ms. Aparna Murlidharan a/w Ms. Sayli Apte for
respondent no.1 MHADA.

Mr. Milind Sathe, Sr. Advocate a/w Mr. Girish Utangale a/w
Mr.Suyash Gadre and Mr. Chetan Mhatre i/by M/s. Utangale & Co.
for respondent no.5 SRA.

Mr. S. Babar, AGP for the Respondent State.

Mr. Pravin Samdani, Sr. Advocate a/w Mr. Ashish Kamat i/by Mr.
Chandrakant Gole for respondent no. 4.

**CORAM : SHANTANU KEMKAR &
SMT ANUJA PRABHUDESSAI, JJ.
SEPTEMBER 20, 2017**

P.C.:

By filing this petition, the petitioners have challenged the order dated 6.12.2014 passed by the 6th respondent in Appeal No. Slum/Desk/2/5/187/2014 dismissing the petitioner's appeal against the notice dated 16.9.2014 and ordering them to vacate the premises occupied by them.

2. Mr. Mihir Desai, learned counsel for the Petitioner has submitted that the Petitioners are eligible slum dwellers. He contends that the appointment of the Developers is under challenge and pending such decision, the Respondent No.2 was not competent to issue the impugned notice. The learned counsel further submits that the Petitioners cannot be evicted without providing transit accommodation or rent.

3. At the outset it may be mentioned that the Petitioners are residing in structures situated in land notified as slum area. The slum area is proposed to be developed under Slum Rehabilitation Scheme. Under the said rehabilitation scheme, the eligible slum dwellers are entitled for tenements as per the area specified in D.C. Regulations. Once the scheme has been accepted by the Slum Rehabilitation Authority the slum dweller has to vacate the hut/structure. Suffice it to say that the slum dwellers cannot refuse to vacate the huts /structures and obstruct the development or implementation of the scheme by taking advantage of the dispute between the society and the developer. All that the eligible slum dwellers are entitled, is for alternate accommodation or rent till they are put in possession of the tenements as per their entitlement.

4. In the instant case, Shri Samdhani, the learned Counsel for the respondent no.4 has submitted that the respondent no.4 being a developer was and is always ready to pay the rent. The learned Counsel for the respondent under the instructions from the respondent no.4 has given the following undertaking:

- i) The respondent no.4 shall pay rent of 11 months to the petitioners as soon as the petitioners vacate the premises.
- ii) The respondent no.4 shall continue to pay to the petitioners monthly rent till the allotment of tenament.
- iii) In the event the respondent is not permitted to develop the property for whatsoever reason, he shall continue to pay the monthly rent for further period of one year from the date of such discontinuation.

. The undertaking given by the respondent no.4 is accepted.

5. In our considered view, the undertaking given by the respondent no.4 is sufficient to redress the grievance of the

petitioner and further to elevate their apprehension about non payment of rent.

6. Under the circumstances, and in the light of the undertaking given by the respondent no.4, we are not inclined to entertain the petition. Hence, the petition is dismissed.

(SMT ANUJA PRABHUDESSAI, J.)(SHANTANU S. KEMKAR, J.)