

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 851 OF 2016

Vijay Shankar Lokhande. ..Petitioner
Vs.
Municipal Corporation of Gr. Bombay & ors. ..Respondents.

Mr. Pradeep Hanvur, for the Petitioner.

Mr. Suresh Kumar, for the Respondent No. 2.

Ms. Amrita Joshi i/b. The Law Point, for the Respondent No. 3.

Mr. Sagar Patil, for the Respondent No. 1 BMC.

**CORAM : R. M. SAVANT &
SMT.SADHANA S. JADHAV,JJ
DATE : 29th JUNE, 2017**

P.C.

1 The Writ jurisdiction of this Court is invoked by the Petitioner challenging the demolition of the Petitioner's structure without providing permanent alternate commercial premises. It is the case of the Petitioner that the structure has been demolished in the year 2012. The Petitioner had filed a Suit in the City Civil Court at Bombay. In the said Suit, it seems an injunction was running against the Municipal Corporation of Greater Mumbai(MCGM), as it was only the MCGM which was a party to the said Suit. The Petitioner's structure, as can be seen from the correspondence between the Respondents

inter se i.e. the Railways, MMRDA and the Office of the Collector, Mumbai Suburban District, has been demolished for widening of foot over bridge so as to provide better facilities for the commuters. By one of the letters from the Office of the Collector, Mumbai Suburban District, the Petitioner is informed that the land is of the Municipal Corporation of Greater Mumbai. However, it has also come on record that the land was acquired for the Railways and that at the time when the demolition took place, the land was with the Railways. In so far as the MMRDA is concerned, the letter annexed to the above Petition discloses that the construction of the foot over bridge was not a part of the MUDP project and therefore, the MMRDA is not responsible for the rehabilitation and that whatever rehabilitation was to be done of the MUDP affected persons has already been done by the MMRDA. In so far as the Railways are concerned, it is the stand of the Railways that the Railways do not have any scheme for rehabilitation akin to the policy of the State Government.

2 The issue that arises is as to whose obligation it is to rehabilitate the persons who are affected by the foot over bridge. The answer to the same lies in the ownership of the land. There is a dispute about the same, amongst the public authorities. The said issue cannot be resolved by us in our writ jurisdiction. The relief sought by the Petitioner in the above Petition

considering the fact that the demolition is of the year 2012, therefore, cannot be granted by us. It would be open for the Petitioner to adopt independent civil proceedings for redressal of his grievances. Needless to state, if any such proceedings are filed, the same would be tried on their own merits and in accordance with law. The Writ Petition is accordingly dismissed.

[SMT.SADHANA S. JADHAV,J]

[R.M.SAVANT, J]