

Ladda

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

WRIT PETITION No.1505 of 2016

Vasant Appa Shinde ..Petitioner.
Vs
The Deputy Collector (ENC) & 11 Ors..Respondents.

Mr. Satish L. Modi i/by Kumar & Assoc for the petitioner.
Mr. Kaushal Trivedi, A.G.P. for Respondent-State.
Mr. Vijay Patil for Respondents No. 2 and 3.
Mr. Prasad Gaonkar for Respondents No. 9 to 12.

CORAM : V.M. KANADE, & C.V.BHADANG,JJ.

DATED : 17th APRIL, 2017.

P.C.

- 1) Heard learned counsel for the petitioner and learned counsel for the respondents.
- 2) By this petition, under Article 226 of the Constitution of India under Article 226 of the Constitution of India, the petitioner is seeking the following reliefs :-

(a) To issue a writ in the nature of mandamus or any other appropriate writ and direct Respondent Nos. 1 to 3, to take suitable eviction proceedings against Respondent No.8, in respect of said Tenement situated at Tenement No.511, in A Wing of Prabhadevi Co-operative Housing Society, Rajabhau Desai

Marg, Prabhadevi, Mumbai - 400025 and after eviction of Respondent No.8 from said tenement, the possession of said tenement be handed over to petitioner;

(b) To issue a writ in the nature of mandamus or any other appropriate writ and direct Respondent No.6 to assist the Respondent Nos. 1 to 3 to get vacant and quiet possession of said tenement i.e. tenement No.511, in A Wing of Prabhadevi Co-operative Hsg. Society, Rajabhau Desai Marg, Prabhadevi, Mumbai - 400 025 from Respondent No.8;

(c) To issue ad-interim order restraining the Respondent No. 8, herself, her family members and/or any person or persons claiming through or under her from parting with possession or creating third party right, title and interest in respect of said tenement i.e. tenement No.511, in A Wing of Prabhadevi Co-op Hsg. Society, Rajabhau Desai Marg, Prabhadevi, Mumbai-400 025;

(d) To issue such other writ, direction or order as this Hon'ble Court, deem proper in the circumstances of the case; and

(e) To award the petitioner the costs of this petition.

3) In our view, this Court, while exercising writ jurisdiction under Article 226 of the Constitution of India, cannot decide the disputed questions of facts and issue directions which are sought by the petitioner in this petition. The petition therefore, in our view, is not maintainable and it is accordingly disposed of.

4) We clarify that the petitioner's right to avail alternate remedy by filing a suit or seeking eviction and implementation of the order, if any, passed by the Mhada is kept open. All contentions of all the parties are kept open. No order as to costs.

(C.V. BHADANG,J)

(V.M. KANADE,J)