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

WRIT PETITION NO.1266 OF 2015

Bhawarlal Motilal Doshi and Ors.

... Petitioners

Vs.

Municipal Corporation of Greater Mumbai and Ors.

... Respondents

WITH

WRIT PETITION NO.2229 OF 2015

Shri Dilip J. Mishra and Ors.

... Petitioners

Vs.

Municipal Corporation of Greater Mumbai and Ors.

... Respondents

WITH

WRIT PETITION NO.2706 OF 2015

Shri Laxmikant Murlidhar Sharma and Ors.

... Petitioners

Vs.

Municipal Corporation of Greater Mumbai and Ors.

... Respondents

Mr. Priti S. Shah for the Petitioners in WP/1266/2015 & WP/2229/2015.

Ms. Shweta Sharma i/by Mr. Siddharth Sharma for the Petitioner in WP/2706/2015 and for Respondent Nos.3 to 6 in WP/1266/2015 and WP/2229/2015.

Ms. Vandana Mahadik for the Respondent Nos.1 and 2 in all matters.

Mr. Rajiv Mane, AGP for the Respondent – State.

**CORAM : A.S. OKA &
SMT. VIBHA KANKANWADI, JJ.**

DATE : 20th JUNE, 2017

PC.

1 As these three Petitions pertain to the same land, we are disposing of the Petitions by a common order. The petitioners in Writ Petition No.1266 of 2015 and 2229 of 2015 are claiming to be the tenants of the structures on the property. The petitioners in Writ Petition No.2706 of 2015 are claiming to be the owners of the land. The contention of the petitioners therein is that the structures on the land which are in possession of the petitioners in the other two Petitions have been constructed by somebody else and not by them and the petitioners therein are not their tenants.

2 The Mumbai Municipal Corporation issued a notice to the petitioners on 27th December, 2014 stating therein that there is a proposal of winding and improvement of Rani Sati road to its full width which is situated in Malad (E) in P/North Ward. It is stated therein that the widening process has been commenced and it is proposed to remove the structures affected thereby. The petitioners were called upon to submit the documents listed therein. The petitioners were informed that if the documents were not submitted within three days, the petitioners would not be considered for allotment of alternate accommodation and the impugned structures will be removed.

3 As far as the Writ Petition No.1266 of 2015 and Writ Petition No.2229 of 2015 are concerned, the Municipal Corporation has found the petitioners therein eligible for grant of benefits as per the Circular dated 25th February, 2004. To some of the petitioners in Writ Petition No.1266 of 2015 further notices were addressed by the Mumbai Municipal Corporation calling upon them to remove their structures which were affected by road line of 18.30 meters within 24 hours.

4 The learned counsel appearing for the petitioners in Writ Petition No.1266 of 2015 and 2229 of 2015, on instructions of the petitioners, states that the petitioners in these two Petition are not interested in taking benefit of the circular dated 25th February, 2004. The contention of the said petitioners is that the Municipal Corporation should take over the land required for road widening by following due process of law. As far as Writ Petition No.2706 of 2015 is concerned, the substantive prayer in the Petition is for challenging the notice dated 27th December, 2014 and the steps taken subsequent thereto by the Municipal Corporation. In the alternative, a prayer is made for issuing a writ of mandamus directing the Municipal Corporation to commence acquisition proceedings and to acquire the portion of the land required for road widening.

5 Thus, the petitioners in these three Petitions are not willing to co-operate with the Municipal Corporation for widening of the Rani Sati Road. Therefore, the only option left to the Municipal Corporation is to adopt due process of law for demolishing the structures which are coming in the way of road widening and for taking over the possession of the land which is required for road widening.

6 Hence, we need not keep the Petitions pending and the same are disposed of by passing the following order :-

ORDER

- (i) We accept the statements of the petitioners in Writ Petition Nos.1266 and 2229 of 2015 that the petitioners therein are not interested in taking benefits under the Circular dated 25th February, 2004 issued by the Mumbai Municipal Corporation under the subject “Policy Guidelines for removal of Bottlenecks on roads”. In view of this statement, we hold that the petitioners in the said two Petitions will not be entitled to claim benefits under the said circular anytime in future;

(ii) We restrain the Mumbai Municipal Corporation from demolishing the structures of the petitioners in the Writ Petition Nos.1266 of 2015 and 2229 of 2015 and from taking over the land which is required for widening of the road without following due process of law;

(iii) The Petitions are disposed of on above terms.

(SMT. VIBHA KANKANWADI, J)

(A.S. OKA, J)