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

WRIT PETITION NO. 2173 OF 2017

Anwar Ahmed Abdul Salam Shaikh & Ors. ... Petitioners
Versus
State of Maharashtra & Ors. ... Respondents

Mr. Pankaj Dwivedi, for the Petitioner.
Mr. Amit Shastri AGP for Respondent No.1.
Ms. K.H. Mastekar, for Corporation.
Mr. B.S. Naik, i/b Kiran Bhagadia for Respondent No.3 – MMRDA.

**CORAM: SMT. VASANTI A NAIK AND
RIYAZ I. CHAGLA, JJ.**
DATED: 11th OCTOBER 2017

PC:-

By this writ petition, the petitioners challenge the validity of the notice dated 28/06/2016. The petitioners seek a direction restraining the respondent Corporation demolishing the structures of the petitioners in pursuance of the same.

According to the petitioners, the respondent Corporation has threatened to demolish the structures of the petitioners in pursuance of the notice. The petitioners are also held ineligible for alternate accommodation.

The learned counsel for the Corporation submitted that an identical question came up for consideration before this Court in original writ petition (L) no. 2442 of 2016 that pertained to the public – general notice issued by the corporation for removal of the structures for construction of 120 feet wide development plan

road at Andheri (W). It is stated that the petitioners in this case would be required to remove the structures as the structures / hutments erected by the petitioners are causing hindrance in the widening work of 120 feet development road. It is submitted that since the petitioners are held ineligible for alternate accommodation, the petitioners are free to take up appropriate steps as it would not be the responsibility of the respondent to provide alternate accommodation to the petitioners.

On hearing the learned counsel for the parties, we find that similar notices like the ones that are impugned in this case were subjected to challenge before this Court in original writ petition (L) no. 2442 of 2016 and this court had, after finding that the structures of the petitioners therein were obstructing the widening work of 120 feet development road, held that the structures were liable to be removed. In the said case, since the petitioners had filed appeals before the Appellate Authority against the order holding them ineligible, this Court had directed that if the petitioners therein succeed in the appeal, the respondent corporation is bound to provide alternate accommodation to them. Since it is held by the order dated 21st September 2016 in writ petition (L) no. 2442 of 2016 that at the instance of the petitioners in the said writ petition the construction of development plan road cannot be held up and since the petition was dismissed, it would be necessary to dismiss this writ petition, on parity as we find on a perusal of the photographs that are tendered by the counsel for the Corporation for our perusal that the structures of the petitioners would cause obstruction and hindrance in the widening of 120 feet road.

Hence, for the reasons recorded hereinabove and also for the reasons recorded in the order dated 21st September 2016, in writ petition (L) no. 2442 of 2016, the writ petition is disposed of with no order as to costs. It is however, made clear that if the petitioners succeed in the appeals filed by them before the Appellate Authority against the order holding them ineligible, the respondent would be required to provide alternate accommodation to the petitioners, as was directed in the decided writ petition. Order accordingly.

(RIYAZ I. CHAGLA J.)

(SMT. VASANTI A NAIK, J.)