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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (STAMP) NO.9047 OF 2018

Somvanshi M. Apparam & Anr.	...Petitioners
V/s.	
The State of Maharashtra & Ors.	...Respondents

Mr.Angad Giri for the Petitioners.

Mr.S.H. Kankal, A.G.P. for the State – Respondent Nos.1 to 4.

Mr.Santosh Pathak for the Respondent No.5.

CORAM : R.D. DHANUKA, J.
DATE : 28TH MARCH, 2018.

P.C. :-

1. The papers are allowed to be produced at 3:00 p.m.
2. Learned counsel appearing for both the petitioners states that Mr.Bhaskar Vishram Gawade is having authority to give the instructions on behalf of both the petitioners.
3. Learned counsel for the petitioners on instructions states that both the petitioners undertake to hand over vacant and peaceful possession of the structures mentioned at serial no.104 at Index-II and other structure claimed by the petitioner no.2 to the respondent no.5 within two weeks from today on the condition that the respondent no.5 entering into an agreement for permanent alternate

accommodation in respect of the suit structure described at serial no.104 of Index-II insofar as the petitioner no.1 is concerned and on payment of compensation. It is submitted by the learned counsel for the petitioners that the petitioner no.1 will accept the compensation at the rate of Rs.9,000/- per month which is being paid by the respondent no.5 to the other occupants without prejudice to the rights and contentions of the petitioner no.1. The petitioner no.1 will file appropriate proceedings for recovery of the additional amount in accordance with law. The undertaking rendered by the learned counsel is accepted.

4. Insofar as the petitioner no.2 is concerned, a perusal of the record indicates that the Additional Collector (Encroachment) had directed the Deputy Collector (E & R) in the order dated 13th October, 2017 to decide the eligibility of the petitioner no.2 within a period of two months from the date of the order. The learned Deputy Collector (E & R) has not decided the same.

5. The Grievance Committee however, in the impugned order has not considered this aspect and has dismissed the appeal filed by the petitioner no.2 also.

6. The Deputy Collector (E & R) is accordingly directed to comply with the said order dated 13th October, 2017 insofar as the petitioner no.2 is concerned and shall decide the eligibility of the

petitioner no.2 within eight weeks from today. If the petitioner no.2 is found eligible, the petitioner no.2 will be entitled to permanent alternate accommodation along with compensation and for execution of an agreement for permanent alternate accommodation with the respondent no.5 subject to the final outcome of those proceedings.

7. Learned counsel for the respondent no.5 undertakes to execute the agreement for permanent alternate accommodation with the petitioner no.1 against the petitioner no.1 handing over vacant and peaceful possession of the structure in question to the respondent no.5 and upon accepting the compensation at the rate of Rs.9,000/- without prejudice to the rights and contentions of the petitioner no.1 as well as the respondent no.5. Learned counsel for the petitioners states that the bank account details of the petitioner no.1 would be furnished to the respondent no.5 within one week from today. The amount of compensation can be credited to the said account by the respondent no.5 at the time of the petitioner no.1 handing over vacant and peaceful possession of the structure in question to the respondent no.5 and the parties entering into the agreement for permanent alternate accommodation.

8. If possession of the aforesaid two structures is not handed over by the petitioners to the respondent no.5 after entering into a permanent alternate accommodation and the petitioner no.1 having

received compensation in his account as agreed aforesaid, the Competent Authority, S.R.A. to dispossess both the petitioners forcibly with the assistance of the police, if necessary.

9. The undertakings recorded by both the parties are accepted.

10. The petitioners are directed to produce a copy of this order to the office of the Deputy Collector (E & R) and not upon the office of the Government Pleader.

11. The writ petition is disposed of in aforesaid terms. No order as to costs.

12. The parties as well as the Competent Authority, S.R.A. and the local Police to act on the authenticated copy of this order.

13. If any application is made for determination of compensation is filed by the petitioner no.1 before appropriate authority, the same shall be disposed of expeditiously after hearing the petitioner no.1 and the respondent no.5.

(R.D. DHANUKA, J.)