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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

CIVIL WRIT PETITION (STAMP) NO.29910 OF 2018

Sanjay Laxman Mohite and Ors.

...Petitioners

Versus

Slum Rehabilitation Authority

Through its Chief Executive Officer and Ors.

...Respondents

Mr.L.R.Shahapur, for the Petitioners.

Mr.Rishikesh Soni a/w Ms.Dharti Pandya i/b Ashok Purohit & Co., for the Respondent No.1 – SRA.

Mr.Chetan Mhatre, for the Respondent No.2- MHADA.

Mr.Mayur Khandeparkar a/w Mr.Aftab Diamondwala, Ms.Asha Nair, Mr.Arunraj i/b Diamondwala and Co., for the Respondent No.3.

Dr.Birendra Saraf, a/w Mr.Sandeep Dhangar, Mr.P.S.Gosar, i/b J.R.Vyas, for the Respondent No.4.

Ms.Archana Gaikwad, for the Respondent No.6.

Mr.Pramod Yadav, for the Respondent No.7.

Mr.S.D.Rayarikar, A.G.P for the Respondent-State.

Mr.Yogesh M. Gosavi, Section Officer, Housing Department is present.

Mr.S.B.Tumbare, Deputy Secretary, Housing Department is present.

CORAM : REVATI MOHITE DERE, J.

DATE : 2nd NOVEMBER, 2018

P.C. :

1. It is pointed out that there is a clerical error in the order dated 1st November, 2018, inasmuch as, the words “enquiry being” have been inadvertently typed as “enquiry of”. The order dated 1st November, 2018 stands corrected accordingly and shall now read as under:-

“Learned AGP seeks more time to take instructions with regard to the enquiry being conducted by the Additional Chief Secretary.”

The order dated 1st November, 2018, shall stand corrected as above. Ordered accordingly.

2. Heard learned counsel for the parties.

3. By this Petition, the Petitioners are essentially aggrieved by the order dated 10th August, 2018, passed by the Apex Grievance Redressal Committee, Mumbai, in Application No.153 of 2018, by which, the Petitioners' application for ad-interim relief/interim relief was rejected. The

Petitioners have also prayed for a direction to the Respondent Nos.1 to 3 and other Competent Authority, not to take any coercive action, demolition or otherwise cause disturbance to the Petitioners and slum dwellers and their respective premises situated on the plot of land, till the disposal of Application No.153 of 2018, before the Apex Grievance Redressal Committee, Mumbai.

4. Learned Counsel for the Petitioners submits that an enquiry is being conducted by the Additional Chief Secretary, Housing Department, with respect to the complaints made by the slum dwellers and that there is no progress in the said enquiry.

5. Learned Counsel appearing for the Respondent No.2—MHADA and learned counsel appearing for the Respondent No.1 - S.R.A state that they will submit their reports, within four weeks from today, to the Additional Chief Secretary, Housing Department, who is conducting the enquiry.

6. It is not in dispute that the aforesaid Petitioners and the other

slum dwellers have filed three Appeals before the Apex Grievance Redressal Committee, Mumbai, being Application Nos.96 of 2017; 153 of 2018, and 212 of 2018. The said Applications have been filed under Section 35(1A) of the Maharashtra Slum Areas (Improvement, Clearance And Redevelopment) Act, 1971.

7. Learned Counsel for the Respondent Nos.3 and 4 state that the hearing of one of the Appeal, before the Apex Grievance Redressal Committee, Mumbai, has already been expedited by the Division Bench of this Court (Coram:Shantanu S. Kemkar & Sarang V. Kotwal, JJ.), vide order dated 17th September, 2018, with a direction to decide the appeal being Application No.153 of 2018, as expeditiously as possible, in accordance with law, preferably within three months from the date of receipt of copy of the order. Learned Counsel for the Respondent Nos.3 and 4 submit that the order dated 23rd October, 2018, passed by this Court (Coram: A.K.Menon, J.) in Writ Petition (Lodging) No.2965 of 2018 alongwith other connected Writ Petitions has attained finality, inasmuch as, the same has not been challenged till date and as such they are entitled to proceed against the said 57 slum dwellers, who are also Petitioners in the

present Writ Petition. Learned Counsel for the Respondent Nos.3 and 4 further submit that the process under Sections 33 and 38 of the Maharashtra Slum Areas (Improvement, Clearance And Redevelopment) Act, may be permitted to continue.

8. Having regard to the rival submissions of the parties and since the Appeals are pending before the Apex Grievance Redressal Committee, Mumbai, without going into the merits of this Petition, it would be appropriate to pass the following order:-

ORDER

i) The MHADA as well as the SRA to submit their reports to the Additional Chief Secretary, Housing Department, within three weeks from today;

ii) On receipt of the said reports, the Additional Chief Secretary, Housing Department, shall conclude the enquiry, within four weeks thereafter;

iii) The Application No.153 of 2018 has already been expedited

vide order dated 17th September, 2018, by the Division Bench of this Court. Accordingly, the other Applications being Application Nos. 96 of 2017 and 212 of 2018 also to be heard, as expeditiously as possible, alongwith Application No.153 of 2018 and within the time frame directed by the Division Bench of this Court vide order dated 17th September, 2018;

iv) No coercive steps to be taken, qua the Petitioners, except the 57 Petitioners who were Petitioners in Writ Petition (Lodging) No.2965 of 2018 alongwith other connected Writ Petitions, till the aforesaid Applications/Appeals, are decided. In case, any adverse order is passed by the Authorities against the Petitioners, except the 57 Petitioners who were Petitioners in Writ Petition (Lodging) No.2965 of 2018 alongwith other connected Writ Petitions, the said order will not be implemented, for a period of four weeks thereafter, in order to enable the Petitioners to challenge the same before the appropriate Authority/Court.

v) As far as the 57 slum dwellers, who had filed Writ Petition (Lodging) No.2965 of 2018 alongwith other connected Writ Petitions, are concerned, the said order dated 23rd October, 2018, passed by this Court

(Coram: A.K.Menon, J.), not having been challenged, till date, the Respondent No.3 and the other Authorities are at liberty to proceed with the execution of the said order dated 23rd October, 2018, only as against the 57 Petitioners who were Petitioners in Writ Petition (Lodging) No.2965 of 2018 alongwith other connected Writ Petitions;

vi) All contentions of all parties are kept open, before the concerned Authorities.

Needless to state, that as on today, there is no impediment for the Competent Authority to proceed with the process under Sections 33 and 38 of the Maharashtra Slum Areas (Improvement, Clearance And Redevelopment) Act.

9. Petition is accordingly disposed of on the aforesaid terms.

10. All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)