

Anand

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

WRIT PETITION NO. 12156 OF 2018

Mehtab Gulbadshah Khan

.Petitioner

Vs.

The Deputy Collector (ENC / REM) &
Competent Authority & ors.

.Respondents

Mr. T. Kochale, Advocate, for the Petitioner

Mr. S. D. Rayarikar, AGP, for the Respondent – State

Mrs. V. Maindad, Advocate, for the SRA

Mr. Y. D. Bandal a/w Mr. P. A. Nakati, Advocate, for the
Respondent No. 3

CORAM : REVATI MOHITE DERE, J.

DATE : 30.10.2018

P.C.

. Heard learned counsel for the parties.

2. It appears that the Petitioner is claiming right in the premises in question, through one Mr. Razak Khan Batul Khan. Learned counsel for the Respondent No. 3 – M/s. Rockline Properties and Developers Pvt. Ltd., on instructions of Mr. Surendrakumar Laxmandas Raval makes a statement that in case, the Petitioner is found to be eligible by any appropriate Authority / Court, the Petitioner will be given premises as

contemplated under the Slum Rehabilitation Scheme. Statement accepted. Learned counsel for the Respondent No. 3 states that the demolition is in progress and that the Petitioner's structure is also required to be demolished.

3. Learned counsel for the Petitioner does not dispute the fact that till date, the Petitioner has not been held to be eligible to any structure under the Slum Rehabilitation Scheme. He, however, states that the Petitioner will be challenging the orders passed by the Deputy Collector before the appropriate Authority, as the Petitioner ought to have been held eligible to the structure and his name should have been incorporated in Annexure – II list i. e. to the premises of Mr. Razak Khan Batul Khan. Accordingly, the Petitioner is at liberty to challenge the orders passed by the Deputy Collector before the appropriate Authority and contest his eligibility. If the Petitioner is found to be eligible, the Respondent No. 3 - M/s. Rockline Properties and Developers Pvt. Ltd. would be under an obligation to give an alternate accommodation / compensation to the Petitioner, under the Scheme as permissible in law.

4. In the meantime, before the demolition of the Petitioner's structure / premises is carried out, the Deputy Collector shall videograph the premises and carry out a panchanama after giving notice to the Petitioner of the same, in their presence. After the panchanama is drawn and videography is done, the premises can be demolished. All contentions and rights of the Petitioner as well as the Respondents are kept open with respect to the said premises so demolished. The question of eligibility is also kept open.

5. The Petition is disposed off on the aforesaid terms.

6. Needless to state that if the Petitioner is found to be eligible, the Respondent No. 3 will give an alternate accommodation / compensation, to the Petitioner.

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

(REVATI MOHITE DERE, J.)