

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (ST.) NO.36999 OF 2018

(Asif Iqbal Abbas Ali Palla and others Vs. The Municipal Corporation of Greater Mumbai and another)

Office Notes, Office Memoranda of Coram, appearances, Court's orders, or directions, and Registrar's Orders

Court's or Judge's orders

Mr. Y. D. Patil i/b. Ms Neha Parate for Petitioners.
Mr. Santosh Parad for Respondents-B.M.C.

CORAM : R. G. KETKAR, J.

DATE : 22ND DECEMBER, 2018

P.C.:

Not on Board. At the request of Mr. Patil, taken up in the production Board.

2. Heard Mr. Patil, learned Counsel for the petitioners and Mr. Parad, learned Counsel for respondents - B.M.C.

3. This Petition takes exception to the order dated 21.12.2018 passed by the Competent Authority and Assistant Commissioner, F/North Division. By that order, petitioners are directed to vacate their structures within 24 hours, failing which the same will be demolished with police aid and will be handed over to the concerned society / developer for carrying out development and the expenses incurred towards it will be recovered as a land revenue. Petitioners were also warned that in terms of Section 3Z-2(6) of the Maharashtra Slum (Improvement, Clearance and Redevelopment) Act, 1971 (for short 'Slum Act'), persons carrying out unauthorized construction after

01.01.2000 can be prosecuted and the sentence of 3 years and fine upto Rs.5,000/- can be levied upon such persons.

4. Mr. Patil submitted that today being the 4th Saturday, petitioners could not file appeal before the Appellate Authority. He assures that on or before 26.12.2018, petitioners will file appeal along with the application for interim order before the Appellate Authority. They will press the ad-interim order within 2 weeks from 26.12.2018.

5. In view thereof, Petition is disposed of in the following terms:

a. Petitioners shall file appeal along with the application for interim relief before the Appellate Authority challenging the impugned order, on or before 26.12.2018. They shall also press for ad-interim order within two weeks from 26.12.2018;

b. The impugned order shall not be implemented for a period of two weeks from 26.12.2018. It is made clear that this limited protection shall not be construed as an expression of merits either way;

c. All contentions of the parties on merits are expressly kept open;

d. No application for extension of this limited protection shall be made and entertained by this Court.

6. All parties to act upon the authenticated copy of this order.

(R. G. KETKAR, J.)