

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO.374 OF 2018**

Shyamsundar Maman Kandera

..Petitioner

vs.

Assistant Engineer Assistant Municipal
Commissioners Office and Ors.

...Respondents

Mr. S. Chinappa and Mr. Kranti L.C. for the Petitioner.

Ms.Pallavi Thakar for the Respondent-BMC.

Mr.Anoop Patil for the Respondent-SRA.

Mr. U.S.Upadhyay, AGP for the Respondent-State.

CORAM : A.S. OKA & P. N. DESHMUKH, JJ.

DATE : 23rd FEBRUARY, 2018

P.C.:

. Heard the learned counsel for the Petitioner and the learned counsel for the Respondent Nos.1 to 3. The order dated 6th February 2018 records the statement of the contesting parties that the first floor of the subject structure has been demolished, but the ground floor of the subject structure is intact.

2. The Petitioner is held to be ineligible for grant of alternate accommodation. On 9th November 2017, the Petitioner has preferred an appeal before the concerned authority of the Mumbai Municipal Corporation which is stated to be pending.

3. Unless the appeal is decided, the Petitioner cannot be evicted from the ground floor structure and the structure cannot be demolished.

4. Hence, the petition need not be kept pending and the same is disposed of by passing the following order:

ORDER

- i) We direct the Appellate Authority of the Municipal Corporation to decide the said appeal within a period of three months from

today;

ii) In the event, the Petitioner is held to be eligible for allotment of alternate accommodation or for rehabilitation, a copy of the order passed in appeal along with a letter of offer for rehabilitation containing all particulars shall be sent to the Petitioner;

iii) Till the disposal of the appeal and communication of the order in appeal to the Petitioner, ad-interim relief granted on 6th February 2018 shall continue to operate. If the order be adverse to the Petitioner, the said ad-interim relief will continue to operate for a period of three weeks from the date of communication of the order to the Petitioner;

iv) We make it clear that we had made no adjudication on the issue of eligibility of the Petitioner. We make it clear that the issue as regards the manner in which the Petitioner can be rehabilitated, is also expressly kept open;

v) The petition is disposed of in the aforesaid terms.

(P.N. DESHMUKH, J)

(A.S. OKA, J.)