

Sharayu Khot.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 1799 OF 2018**

Mr. Shine Paul & Anr.

...Petitioners

Versus

State of Maharashtra & Ors.

...Respondents

Mr. Prayag Joshi, i/by Mr. Mahendra Bhingardive, for the
Petitioners.

Mr. Kunal Bhanage, AGP, for the Respondents No. 1 to 3-State.

Ms. Vandana Mahadik, for the Respondent No. 4-BMC.

**CORAM : ABHAY S. OKA AND
RIYAZ I. CHAGLA, JJ.**

DATE : 27 June 2018

ORAL JUDGMENT : (Per A.S. Oka, J.)

1. Rule. The Respondents waive service. Forthwith
taken up for hearing.

2. Heard the learned Counsel appearing for the
Petitioners, the learned AGP appearing for the 1st to 3rd

Respondents and the learned Counsel appearing for the 4th Respondents.

3. A notice dated 8th May 2017 was served to the Petitioners. By the said notice, the Deputy Collector (Encroachment/Eviction), Dharavi Division called upon the Petitioners to remove the religious structures subject matter of the Petition. The directions were issued in terms of the judgment and order dated 1st October 2016 passed by this Court in the Public Interest Litigation No. 104 of 2010 (*Society For Fast Justice & Anr. Vs. The State of Maharashtra & Ors.*) read with the Government Resolution dated 5th May 2011 issued in terms of various orders passed by the Apex Court in Civil Appeal No. 8519 of 2006. The impugned notice records that the religious structures of the Petitioners has been classified as falling in “B” Category which is required to be demolished.

4. The grievance of the Petitioners is that proper opportunity of being heard was not granted to the Petitioners

before classifying the religious structures falling in category "B".

5. Considering the peculiar facts of the case, the learned AGP on instructions states that if the Petitioners make a representation along with the supporting documents, the State Level Committee appointed under the Government Resolution dated 5th May 2011 will reconsider the case of the Petitioners with reference to classification in "A", "B" and "C" categories. Considering this statement made on behalf of the State Government, the Petition need not be kept pending and we dispose of the Petition by passing the following order:-

- (i) We direct the Petitioners to make a representation addressed to the Chief Secretary of the Government of Maharashtra who is the chairperson of the State Level Committee appointed under the Government Resolution dated 5th May 2011 along with the supporting documents. Such a representation in writing

shall be made by the Petitioners within a period of three weeks from today;

- (ii) The State Level Committee constituted under Government Resolution dated 5th May 2011 shall reconsider the case of the Petitioners. After considering the documents produced by the Petitioners and after giving an opportunity of being heard to the Petitioners, the State Level Committee shall take a decision about the classification of the subject structure. The decision shall be taken within a period of three months from the date on which the representation is made by the Petitioners;

- (iii) The decision taken by the State Level Committee shall be communicated by the Deputy Collector to the Petitioners. If the decision taken is to confirm the classification of the structure as

falling in Category "B", time of 15 days shall be granted to the Petitioners to remove the structure from the date of service of the notice of the decision to the Petitioners or any one of them;

(iv) In view of the above directions, now the impugned notice dated 8th May 2018 cannot be acted upon;

(v) We make it clear that we had made no adjudication on the issue regarding the classification of the subject structure. The State Level Committee shall take a decision in accordance with law.

(vi) Rule is made absolute with no order as to costs.

[RIYAZ I. CHAGLA J.]

[ABHAY S. OKA, J.]