

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.1990 OF 2017**

Subhash Ramraosagar

..Petitioner

vs.

The State of Maharashtra and 3 Ors.

...Respondents

Ms.Tanmayi Gadre a/w Ms. Swati Pawar & Mr. Amit Karle i/b S.K. Legal Associates for the Petitioner.

Mr.Dushyant Kumar, AGP for the Respondent No.1.

Ms.Kejali Mastakar for the Respondent-BMC.

Ms.Kiran Bagalia for the Respondent no.2.

Ms.Shyamali Gadre a/w Ms. Neha Mirajkar i/b Little & Co. for the Respondent No.3.

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

DATE : 15th JANUARY, 2018

P.C.:

. Ms. Gadre, the Learned counsel for the Petitioner reiterates that the Petitioner is not interested in availing the benefit of rehabilitation offered by the Respondent No.2. She states that as of today, the Respondent No.2 has never pointed out any statutory provision by exercise of which the Respondent No.2 can demolish the structures of the Petitioner.

2. Ms.Bagalia, the learned counsel for the Respondent No.2 states that the Respondent No.2 may be permitted to withdraw the impugned notice/letter. The learned counsel for the Petitioner reiterates that the Petitioner is not interested in accepting the rehabilitation offered by letter dated 30/6/2017 (Exhibit-B). She also states that the Petitioner is not willing to accept alternate accommodation offered to him under the letter dated 29/6/2017 at (Exhibit A1 to A3).

3. On the earlier date, we had called upon the learned counsel for

the Respondent No.2 to establish before the Court that the Respondent No.2 has statutory power to remove either the illegal constructions or the constructions which are coming in the way of Metro Rail Project. Learned Counsel appearing for the Respondent No.2 is unable to show any provision. Learned counsel for the Respondent No.3 states that the Respondent No.3 is the Planning Authority for the said area. Therefore, it is obvious that the Respondent No.3 will have to adopt due process of law for removing the structures of the Petitioner. According to the case of the Respondent No.3, the Petitioner is an encroacher. Even if that be so, still the Respondent No.3 will have to follow due process of law.

4. As the letter dated 30/6/2017 (Exhibit-B) stands withdrawn, it is not necessary to entertain this petition under Article 226 of the Constitution of India. No action can be taken by the Respondent No.2 on the basis of the said letter. The petition is disposed of subject to what is stated above.

(P.N. DESHMUKH, J)

(A.S. OKA, J.)