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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L)NO.2382 OF 2017

Vithal Lalsure & Ors. ...Petitioners
vs.
Municipal Corporation of
Greater Mumbai & Ors. ...Respondents

Mr.Omprakash Singh for the Petitioners
Ms K.H.Mastakar for the respondent No.1-MMC.
Ms Geeta Shastri, Addl.G.P for State

CORAM : A.S.OKA, &
RIYAZ.I.CHAGLA,JJ.
DATE : MARCH 16, 2018

P.C.:

1 Notice for final disposal has been already issued in this petition. The learned counsel for the respondent No.1-Mumbai Municipal Corporation has tendered across the bar a chart showing the status of the individual petitioners visa-a-vis their eligibility for rehabilitation. The chart is taken on record and marked 'C-1' for identification. The chart shows that the first petitioner has been held eligible for grant of alternate accommodation in respect of a residential structure. The chart shows that the fifth and sixteenth petitioners who are holding the residential structures have been held to be ineligible. The chart shows that the second, third, fourth, sixth, eighth, ninth, eleventh, twelfth, thirteenth, fourteenth, fifteenth and seventeenth petitioners have been held to be eligible for rehabilitation. The said petitioners are holding commercial structures/non residential

structures. The chart shows that the seventh and tenth petitioners have been held to be ineligible in respect of the non residential/commercial structures. We accept the factual details in the chart as correct.

2 In view of this factual position, the petition need not be kept pending and the same is disposed of by passing the following order:

(I) We direct the first respondent—Mumbai Municipal Corporation to offer rehabilitation to those petitioners who have been held eligible for rehabilitation. The offer in writing containing all material particulars/terms and conditions shall be made within a period of four weeks from today;

(II) Till the date of communication of the offer in writing to the concerned petitioners, their structures shall not be demolished. For a further period of three weeks from the date on which rehabilitation offer is communicated to the petitioners, the structures shall not be demolished;

(III) In case of those petitioners who are held to be ineligible for rehabilitation, it will be open for the said petitioners to prefer an appeal within a period of three weeks from today. The appeals shall be filed before the appropriate authority of the Mumbai Municipal Corporation. The appeals shall be decided as expeditiously as possible and preferably within a period of four months from the date on which the appeals are preferred. The order passed on the appeals shall be communicated to the

concerned petitioners. Till the date of communication of the order passed on the appeals to the concerned petitioners, their structures shall not be demolished. On their failure to prefer appeals within the stipulated period, the protection shall come to an end;

(IV) If the orders passed on the appeal be adverse to the petitioners, their structures shall not be demolished for a period of three weeks from the date of communication of the said order;

(V) In the event, the concerned petitioners or some of them who prefer appeals are held to be ineligible for rehabilitation by the Appellate Authority, within a period of three weeks from the date on which the decision of the Appellate Authority is communicated to the concerned petitioners, an offer of rehabilitation with all particulars shall be made in writing to such petitioners;

(VI) The structures of the said petitioners to whom offer is made shall not be demolished for a period of three weeks from the date on which offer of rehabilitation is communicated to the concerned petitioners;

(VII) We make it clear that we have made no adjudication on the question about the manner in which the eligible petitioners should be rehabilitated. We have also made no adjudication on the merits of the issue of eligibility who are held to be ineligible;

(VIII) Rule is made partly absolute on above terms.

(IX) In case of those petitioners who are held to be ineligible, copies of the order holding them ineligible be made available to them immediately.

(RIYAZ.I.CHAGLA,J.)

(A.S.OKA,J.)