

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**WRIT PETITION LODGING NO.2399 OF 2017
ALONG WITH
CHAMBER SUMMONS NO.309 OF 2017
IN
WRIT PETITION LODGING NO.2399 OF 2017**

**Ambedkar Centre For Justice
And Peace**

Through Nagsen Krishna Sonare : Petitioner/Applicant.

Versus

The Collector

Mumbai Suburban District and ors. : Respondents.

**Mr. Hemant Ingale I/by Mr. Prashant Goyal for the Petitioner/Applicant.
Mr. S B Gore AGP for the Respondent/State.**

**CORAM : R. M. SAVANT &
NITIN W. SAMBRE, JJ.
DATE : 11th OCTOBER 2018**

P.C.

1 The writ jurisdiction of this Court is invoked against the order dated 27/07/2017 passed by the District Planning Officer, Mumbai Suburban District. By the said order the Petitioner has been informed that the order dated 16/03/2017 passed by the Collector, Mumbai Suburban District is maintained.

2 The Petitioner was given a plot of land, on which a gymnasium was established out of the funds of the Member of Legislative Assembly Shri

Kapil Patil, by the Mumbai Slum Improvement Board for being maintained for a period of 5 years. The said plot of land being granted for a period of 5 years, the said period undisputedly has come to an end on 15/09/2015. Thereafter an action for evicting the Petitioner came to be commenced. The matter reached the Collector, Mumbai Suburban District in view of the complaint made by one Charkop (1) Laxmi Vishnu Co-operative Housing Society Ltd. which is a society of the slum dwellers. The facility of gym being one provided under the Member of Legislative Assembly Area Development Fund, the grievance made against the Petitioner was that the said plot of land was being misused, trees were cut and the said plot of land was not maintained in an hygienic manner. The said Charkop (1) Laxmi Vishnu Co-operative Housing Society Ltd. had also made a complaint to the Lokayukta, Maharashtra State. The complainant i.e. Charkop (1) Laxmi Vishnu Co-operative Housing Society Ltd. appeared before the Lokayukta and a statement came to be made by the MHADA that the action would be taken of taking back the possession of the said plot of land. The said action ultimately culminated in the order of the Collector dated 16/03/2017 which is on the letter head of the District Planning Committee. By the said order the Collector has directed the Slum Improvement Board to maintain and preserve the said plot of land. The Collector has rejected the application of the said Charkop (1) Laxmi Vishnu Co-operative Housing Society Ltd. as well as the Petitioner for the reasons stated in the order.

3 The Petitioner carried the matter by way of an Appeal to the office of the Commissioner of the Revenue Division. The office of the Divisional Commissioner, Konkan Division was of the view that the decision whether the institution i.e. the Petitioner is entitled or not is to be taken at the level of the Collector and therefore it was not necessary to entertain the Appeal. The District Planning Officer, Mumbai Suburban District vide the impugned order dated 27/07/2017 informed the Petitioner that the order passed by the Collector is maintained. The Petitioner has challenged the said order on the ground that the Petitioner has not been heard prior to passing of the said order.

4 Having regard to the fact that the Petitioner was given the said plot of land only for maintenance for a period of 5 years which period is long over in the year 2015, we do not see any right in the Petitioner which has been infringed on account of the order passed by the Collector. It is expected that in establishing the amenity under the Member of Legislative Assembly Area Development Funds equal opportunity is granted to all the parties. For the aforesaid reasons, we do not find any merit in the above Writ Petition. The same is accordingly dismissed.

5 In view of the dismissal of the above Writ Petition, the above

Chamber Summons 309 of 2017 does not survive and the same to accordingly stand disposed of as such.

[NITIN W. SAMBRE, J]

[R. M. SAVANT, J]