

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO.3438 of 2018

Zarina Zikar Haji Mohd .. Petitioner
vs
Brihanmumbai Municipal Corpn Respondents

with

WRIT PETITION (L) NO.3439 of 2018

Mohd Shahid Virani .. Petitioner
vs
Brihanmumbai Municipal Corpn Respondents

with

WRIT PETITION (L) NO.3440 of 2018

Shamim Iqbal Virani .. Petitioner
vs
Brihanmumbai Municipal Corpn Respondents

with

WRIT PETITION (L) NO.3441 of 2018

Khalid Iabal Virani .. Petitioner
vs
Brihanmumbai Municipal Corpn Respondents

with

WRIT PETITION (L) NO.3442 of 2018

Mohammed Riyaz Virani .. Petitioner
vs
Brihanmumbai Municipal Corpn Respondents

with

WRIT PETITION (L) NO.3443 of 2018

Mohammed Riyaz Virani .. Petitioner
vs
Brihanmumbai Municipal Corpn Respondents
with

WRIT PETITION (L) NO.3446 of 2018

Iqbal Haji Mohammed Virani .. Petitioner
vs
Brihanmumbai Municipal Corpn Respondents

Mr.Atul Singh for Petitioner
Ms.Pooja Yadav for Respondents.

Coram : G.S.KULKARNI, J
Date : 04 DECEMBER 2018

P.C

Not on Board. Upon mentioning, matters are taken on board.

1. Heard learned counsel for the parties.
2. These batch of petitions raise a common challenge namely to a communication dated 24.9.2018 of the Assistant Commissioner, 'F'-South-Ward, issued to the petitioners calling upon them to vacate their respective premises within 48 hours of the receipt of the said notice. It is not in dispute that the petitioners are found to be eligible for allotment of permanent alternate premises in the re-development scheme which is being undertaken under regulation 33 (7) of the Development Control Regulations. It is also not in

dispute that an agreement has already entered between the petitioner and the developer.

3. The only issue as urged on behalf of the petitioner is that one of the conditions in the agreement between the petitioners and the developer that the petitioners would be entitled to a permanent alternate accommodation only on petitioners producing attornment/transfer certificate to be issued by the Municipal Corporation, which are so far not issued to them.

4. The contention as urged on behalf of the petitioners is that the petitioners have already applied to the Municipal Corporation for issuance of an attornment/transfer certificate, however the Municipal Corporation has still not processed the petitioner's application for grant of attornment/transfer certificate. It is submitted that in the absence of attornment/transfer certificate, the petitioners would not vacate their premises. The petitioners cannot adopt such a hard stand not to vacate the premises and delay the re-development, when they are already found to be eligible for permanent alternate accommodation.

5. Be that as it may, learned counsel for the Municipal Corporation on instructions, has made a statement that the applications of the petitioners for attornment/transfer certificate, are pending with the Municipal Corporation and the competent officer of the Corporation shall consider and decide the said

applications within a period of two weeks from today. Statement is accepted.

6. Within a period of two weeks of the receipt of the communication of the decision on the petitioner's attornment application and/or issuance of the attornment/transfer certificate, by the Municipal Corporation, the petitioners shall vacate and hand over their respective premises to the Corporation.

7. Needless to observe and in the meantime, no coercive action be taken by the Municipal Corporation against the petitioners till the attornment/transfer applications are decided and orders on the said applications are communicated to the petitioners.

8. Writ petitions are accordingly disposed of, in above terms. No order as to costs.

(G.S.KULKARNI, J)