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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO 427 OF 2018

Nawal Singh	... Petitioner
vs.	
The State of Maharashtra & 2 Ors.	... Respondents

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Mr. S. R. Nargolkar i/b. Mr. Ketan Joshi for the Petitioner.
 Ms. Meena Harshad Doshi for the Respondent no. 2.
 Mr. Himanshu Takke, AGP for Respondent no. 1

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CORAM : A.K. MENON, J.
DATE : 5th JUNE, 2018

P. C.

1. By this Writ Petition the petitioner a former Deputy General Manager of respondent no. 2 seeks to assail the order dated 15th June, 2016 passed by the Monitoring Committee constituted by the State of Maharashtra under D.C.R. 58 of the Development Control Regulations, 1991. It is the case of the petitioner that by virtue of the said regulation it is obligatory on the part of the National Textile Corporation Ltd. (NTC) to provide permanent alternate accommodation to the petitioner at the same location under the provisions of DCR 58 Act clause no. 7(a) which reads as follows :

- (7) *Notwithstanding anything contained above –*
- (a) *if and when the built up areas of a cotton textile mill occupied for residential purposes as on the 1st of January, 2000 developed or redeveloped, it shall be obligatory on the part of the land owner to provide to the occupants in lieu of each tenement covered by the development or redevelopment scheme, free of cost, an alternative tenement of the size of 225 sq.ft carpet area (Provided that no such occupants shall be evicted till such time, he / she is provided with alternative accommodation of the size 225 sq.ft carpet area in such development or redevelopment scheme*

For reconstruction / redevelopment to be undertaken by landlord / or Co-op Hsg Society of occupiers in respect of residential buildings / chawls located on the land of Cotton Textile Mills, the following conditions shall apply :

- (i) *In case of redevelopment of buildings occupying part of larger holding, the notional area of plot on the basis of permissible FSI and the total built up area of the building shall be computed and thereafter considering such notional area of the plot, FSI equivalent to difference in the FSI required for rehabilitation of existing occupants and the existing FSI of the occupants shall be granted as additional incentive, FSI.*
- (ii) *Each occupant shall be rehabilitated and given the carpet area of 20.90 sq.mt. or the existing carpet area occupied by him whichever is more subject to a maximum carpet area upto 70 sq.mt.*
- (iii) *All the occupants of the old building shall be accommodated in the redeveloped building.*
- (iv) *The list of occupants and area occupied by each of them in the old building shall be certified by MHADA.*

2. According to the petitioner he was a occupant of residential premises as on the cut-off date of 1st June, 2000 referred in clause 7(a) and was not liable to be evicted till such time he was provided alternate accommodation in the redevelopment scheme. Contrary to the said regulation he has been denied this opportunity of occupying such premises in the redeveloped property of the second respondent -mill. Although the actions impugned are an order are dated 15th June, 2016 and a communication dated 2nd June, 2017 from the State Government (Exhibits "M" and "O" to the petition), essentially the challenge is against order dated 15th June, 2016 whereby the committee considered the application made by the petitioner for alternate accommodation under D.C.R.58 clause 7(a) and rejected it. The impugned order considers the status of the petitioner in paragraph 43 and deals with the fact that the petitioner was in employment in a managerial capacity and therefore was not a workman in that sense. He was also occupying staff quarters when he retired in the year 2008. After retirement he was called upon to vacate the premises but he chose to challenge the direction and continued occupying the premises.

3. After the Estate Officer ordered that the petitioner was liable to be evicted, the petitioner approached this Court challenging his proposed eviction under the Public Premises Eviction Act, 1973 by filing Writ Petition No. 1247 of 2012 which came to be disposed of vide order dated 4th September, 2013. While disposing of the Writ Petition in paragraph 6 of that order, this Court recorded that the petitioner had only a right of service occupancy and nothing more. There was no question of seeking any other protection under Rent control legislation. Specific

reference was made to his claim for rehabilitation under the Development Control Regulations and in particular D.C.R. 58. Subsequently on 19th March, 2013 a Letters Patent Appeal was filed came to be withdrawn with liberty to file review petition. A Review Petition no. 34 of 2013 came to be filed which also was heard and disposed of on 10th April, 2013 refusing relief and dismissing the review petition.

4. The petitioner thereafter filed Special Leave Petition No. 15455-15456 of 2013 which came to be dismissed on 17th April, 2013 wherein an observation was made that within four weeks the petitioner would be entitled to take “appropriate steps”. This order came to be clarified on dated 22nd April, 2013 (Exhibit - E to the reply filed in the present petition) whereby the Supreme Court clarified that there was no question of any time being granted to take any appropriate steps and that the operative portion was to be treated as simple dismissal of the Special leave Petition after condonation of delay.

5. Ms. Doshi appearing on behalf of the respondent while opposing the petition has contended, in my view correctly, that D.C.R. 58 contemplated a provision of alternate accommodation to those persons who were residing in the premises on lands owned by the textile mills and that the present petitioner was not in occupation of any such premises but was of a managerial cadre and was occupying the regular service accommodation. It appears from the record that the petitioner has since been evicted in the year 2013 after which he chose to file an application on or about 22nd April, 2013 through the Union.

6. Being aggrieved by the order dated 15th June, 2016 the petitioner is seen to have approached the State Government and sought intervention which was also refused. The impugned orders in my view are neither perverse nor illegal. In the circumstances I find no reason to interfere with the impugned orders. I therefore pass the following order :

- (i) Writ petition is dismissed.
- (ii) There will be no orders as to costs.

(A.K. MENON, J.)