

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (Lodging) No.3636 of 2018***

Rajendra Ramlakhan Gupta .. Petitioner
vs
The Commissioner, MCGM & ors .. Respondents

with
WRIT PETITION (Lodging) No.3637 of 2018

Javerben Khimji Shah .. Petitioner
vs
The Commissioner, MCGM & ors .. Respondents

with
WRIT PETITION (Lodging) No.3638 of 2018

Premji Arjanbhai Chheda .. Petitioner
vs
The Commissioner, MCGM & ors .. Respondents

with
WRIT PETITION (Lodging) No.3639 of 2018

Premji Arjanbhai Chheda .. Petitioner
vs
The Commissioner, MCGM & ors .. Respondents

with
WRIT PETITION (Lodging) No.3640 of 2018

Vasant Narayan Kokate .. Petitioner
vs
The Commissioner, MCGM & ors .. Respondents

with
WRIT PETITION (Lodging) No.3641 of 2018

Umesh Shrinivas Nayak .. Petitioner
vs
The Commissioner, MCGM & ors .. Respondents

with
WRIT PETITION (Lodging) No.3644 of 2018

Ansar Ahmed Shaikh .. Petitioner
vs
The Commissioner, MCGM & ors .. Respondents

with
WRIT PETITION (Lodging) No.3645 of 2018

Abrar Ahmed Shaikh .. Petitioner
vs
The Commissioner, MCGM & ors .. Respondents

with
WRIT PETITION (Lodging) No.3687 of 2018

Khemraj Dhukaji Mali & ors .. Petitioners
vs
The Commissioner, MCGM & ors .. Respondents

Mr.Vishal Kanade with Mr.Y.S.Sankpal
and Mr.Makrand Kale for Petitioners in WPL No.3637/2018
to WPL No.3636/2018 to WPL No.3645/2018

Mr.Vishal Kanade with Mr.,Shyam Singh I.b Mr.L.S.Shukla for
Petitioner in WPL No.3687/2018
Mr.Yashodeep Deshmukh with Ms.Pooja Yadav for Respondents

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Coram : G.S.KULKARNI, J

Date : 28th NOVEMBER, 2018

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Not on Board. At the request of learned counsel for the petitioners, these petitions are taken on board on a praecipe as moved on behalf of the petitioners.

2. Heard learned counsel for the petitioners and learned counsel for the respondent-Municipal Corporation.

3. The challenge in this petition is to the communication dated 3.10.2018 issued by the respondent-Municipal Corporation, whereby the petitioners were offered alternate tenements at the Malad Municipal Retail Market situate at CTS No.220, Liberty Gardens, Malad (W) Mumbai in the P/North ward. On 24.10.2018 this Court passed the following order :

“ Ms Yadav on behalf of the Corporation seeks time to file an affidavit in reply.

2. Reply, if any, to be filed by 29th October 2018 with copies to the petitioners Advocates.

3. In view of the fact that there is a threat of demolition of the structures, no demolition shall be undertaken till the next date especially in view of the

Corporation's contention that they were willing to offer alternate accommodation in Municipal Retail Market at Malad but which is admittedly occupied by an NGO which said to be running a shelter home at site.

4. Stand over to 31st October, 2018.”

4. Thereafter, when the Petitions were taken up for hearing on 31.10.2018, on behalf of the Corporation, it was submitted that in place of alternate accommodation offered at the Malad Municipal Retail Market the petitioners would be offered tenements/premiss at Ahimsa Nagar, Malad (W). The Municipal Corporation had sought time to issue formal orders. The Court accordingly, directed that necessary allotment letters be issued in respect of the premises on or before 21.11.2018. It will be appropriate to note the said order which reads thus :

“1. Pursuant to order dated 24th October 2018 on behalf of the Corporation it is submitted that instead of alternate accommodation at Municipal Retail Market which cannot be now offered to the petitioners other premises are being offered at Ahimsa Nagar, Malad (West). However, no formal orders have been issued. The counsel for the respondent no.1 therefore seeks time to issue formal orders.

2. The corporation shall issue the necessary allotment letter and offer inspection of the premises on or before 21st November 2018.

3. Stand over to 28th November 2018. Protection against demolition will operate till the next date. “

5. The application on behalf of the petitioners as made today, is although for extension of the ad- interim protection which was earlier granted and which is expiring today, Mr.Kanade fairly submits that the

initial course of action to file the petition would no more survive in view of the tenements being offered by the Municipal Corporation at a new place.

6. Learned counsel for the Municipal Corporation contends that in pursuance of the order dated 31.10.2018 some of the petitioners have already taken inspection of the premises at Ahimsa Nagar between 16.11.2018 to 24.11.2018, and that the Municipal Corporation is in the process of issuing allotment letters.

7. Be that as it may, if the Municipal Corporation is having urgency to get the premises as presently occupied by the petitioners vacated, then it is expected that expeditious action is taken on the part of the Municipal Corporation to offer alternate accommodation to the petitioners at Ahimsa Nagar, as submitted on behalf of the Municipal Corporation and as recorded by this Court in its order dated 3.10.2018.

8. In view of the earlier orders, and the stand as taken on behalf of the Municipal Corporation the challenge in the petitions would not survive, as new premises at Ahimsa Nagar Malad are offered by the

Municipal Corporation. The Petitions therefore, would not warrant any further adjudication. In the above circumstances, petitions are being disposed of by the following order :

O R D E R

(i) The Municipal Corporation shall take appropriate steps within a period of one week from today to issue fresh allotment letters to the petitioners for allotment of tenements at Ahimsa Nagar or at any other appropriate location as the Municipal Corporation so desires.

(ii) The petitioners shall be offered and take inspection of their respective allotted premises within a period of one week from the receipt of the allotment orders.

(iii) If the petitioners are agreeable to accept the alternate accommodation, the petitioners shall vacate their respective premises within a period of 10 days after inspection of their respective allotted premises is undertaken.

(iv) All contentions of the parties on the fresh allotment are expressly kept open.

9. No costs.

(G.S.KULKARNI, J)

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