

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO.3602 OF 2017**

Shamshunnisa K. Shaikh and Ors.

..Petitioners

vs.

Municipal Corporation for Greater
Mumbai

...Respondent

Mr.V.T.Dubey for the Petitioners.

Ms.Shital Mane for the Respondent-BMC.

CORAM : A.S. OKA & P. N. DESHMUKH, JJ.

DATE : 23rd FEBRUARY, 2018

P.C.:

. Heard the learned counsel appearing for the parties. Clause (1) of the order dated 19th December 2017 reads thus:

“1 The learned counsel appearing for the petitioners on instructions states that the petitioners will file an Appeal as indicated in the impugned notices within a period of two days from today. We accept the statement. He states that if the petitioners are held as eligible, the petitioners are willing to shift to alternate accommodation which may be offered by the Municipal Corporation. We accept the statement. Place the Petition on 25th January, 2018 high upon board. Till the next date, the structures occupied by the petitioners shall not be demolished. We make it clear that the Appellate Authority shall proceed with the hearing of the Appeals as expeditiously as possible.”

2. Mr.Dubey, the learned counsel for the Petitioners states that the appeals on the issue of eligibility have been preferred by the Petitioners as they have been held to be ineligible for grant of alternate accommodation. This fact is not disputed by the learned counsel appearing for the Respondent and she states that their appeals are pending.

3. The Learned counsel appearing for the Petitioners submits that

the structures the subject matter of this Petition are on a private property and, therefore the structures cannot be demolished. However, the Petitioners have made a solemn statement on 19th December 2017, which is recorded in the order of this Court that if they are held to be eligible, they are willing to shift to alternate accommodation. In view of this statement, the said contention cannot be allowed to be raised now.

4. Hence, we dispose of the petition by passing the following order:

ORDER

- i) We direct the appropriate authority of the Respondent to decide the appeals preferred by the Petitioners within a period of 3 months from today;
- ii) The decision taken in the appeals shall be communicated to the Petitioners. If the Petitioners are held to be eligible, even offer of rehabilitation with all material particulars shall be communicated along with the order of the Appellate Authority. In such case, the structures of the Petitioners shall not be demolished for a period of 3 weeks from the date on which the order of the Appellate Authority and the offer letters are served to the Petitioners;
- iii) In the event the orders of the Appellate Authority be adverse to the Petitioners, the action of demolition shall not be taken for a period of 3 weeks from the date of communication of the orders to the Petitioners;
- iv) We make it clear that we had made no adjudication on the issue of eligibility of the Petitioners;
- v) The petition is disposed of on the above terms.

(P.N. DESHMUKH, J)

(A.S. OKA, J.)