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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L)NO.3603 OF 2017

Madhusudan Rambramhachary & Ors. ...Petitioners
vs.
Municipal Corporation of
Greater Mumbai & Ors. ...Respondents

Mr.Omprakash Singh for the Petitioners
Mr.Amar Mishra, AGP for the respondent-State
Ms K.H.Mastakar for respondent-MMC.

CORAM : A.S.OKA, &
 RIYAZ.I.CHAGLA,JJ.
DATE : MARCH 23, 2018

P.C.:

. Not on board. Taken on board.

1 Heard the learned counsel appearing for the petitioners, the learned counsel for the respondent Nos.1 to 3 and the learned AGP for respondent Nos.4 and 5. Forthwith taken up for final disposal.

2 The respondent Nos.1 to 3 have initiated an action of demolition of the structures in possession of the petitioners for the implementation of the order passed by this Court in PIL No.140 of 2006 on the ground that the structures are situated within 10 meters from the main pipeline supplying water to the city of Mumbai.

3 The learned counsel for the respondent No.1 has handed over a chart which is taken on record and

marked 'C-1' for identification. The chart shows that the first petitioner is held ineligible for rehabilitation for a non-residential structure. It shows that the third and sixth petitioners have been held eligible for rehabilitation in respect of the non-residential structures. The chart shows that even the seventh petitioner is held to be eligible for rehabilitation in respect of a non-residential structure. The eighth petitioner is held ineligible for rehabilitation in respect of a non residential structure. However, the ninth petitioner is held eligible for rehabilitation in respect of a non-residential structure. It appears that eligibility of the second, fourth and fifth petitioners is not yet decided. The learned counsel for the Mumbai Municipal Corporation states that the names of the said petitioners did not figure in the list prepared by the Mumbai Municipal Corporation.

4 The learned counsel for the petitioner states that even to this petition, documents concerning the second, fourth and fifth petitioners have been annexed.

5 Hence, we need not keep the petition pending and the same is disposed of by passing the following order:

(I) We direct the respondent Nos.1 to 3 to offer to third, sixth, seventh and ninth petitioners rehabilitation package by setting out all the particulars and terms and

conditions by written communication. Such written communication shall be issued within a period of three weeks from the date on which this order is uploaded;

(II) Till the date of service of the communication to the said petitioners, their structures shall not be demolished;

(III) It will be open for the first and eighth petitioners to prefer an appeal before the appropriate Authority of the Mumbai Municipal Corporation for challenging the decision holding them as ineligible for rehabilitation. The appeals shall be preferred within a period of three weeks from the date on which this order is uploaded. If appeals are preferred within the stipulated time, the same shall be decided within a period of four months from the date of preferring the appeals. The orders passed in appeals be served to the concerned petitioners. If the concerned petitioners are held to be eligible, rehabilitation offer shall be given to them in writing containing all the particulars. Till the communication of orders passed in the appeals to the said petitioners and for a period of three weeks thereafter, their structures shall not be demolished;

(IV) We make it clear that on the failure of the first and eight petitioners to prefer appeals within the aforesaid period, it will be open for the Mumbai Municipal Corporation

to demolish their structures;

(V) We direct the second, fourth and fifth petitioners to produce before the respondent No.3 the documents in support of their claim eligibility for rehabilitation within a period of three weeks from the date on which this order is uploaded. Their claims for eligibility shall be decided afresh by the respondent No.3 within the maximum period of two months from the date on which this order is uploaded. The decision taken on the eligibility shall be communicated to the said petitioners. If they are held to be eligible for rehabilitation, an offer in writing containing all the particulars shall be also served to the said petitioners. Till the date of communication of the decision on the issue of eligibility to the said petitioners and for further period of three weeks therefrom, their structures shall not be demolished;

(VI) Writ petition is disposed of on above terms.

(RIYAZ.I.CHAGLA,J.)

(A.S.OKA,J.)