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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO.3623 OF 2017**

Shahazaad Ali Khan ... Petitioner
Vs.
Municipal Corporation for Greater Mumbai and Ors. ... Respondents

Mr. Mohammad Qais i/by Mr. Brijesh Shukla for the Petitioner.
Ms. Shital Mane for the Respondent Nos.1 to 3.
Ms. Saba Khan i/by Mr. Jahangir Khan for the Respondent No.4.
Mr. Sukanta Karmakar, AGP for the Respondent Nos.5 and 7.
Mr. Siddharth Gawande i/by Mr. Anoop Patil for the Respondent No.6.

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

DATE : 9th FEBRUARY, 2018

PC.

1 Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the first to third respondents. Clause 1 of the order dated 19th December, 2017 reads thus :-

“1. The learned counsel appearing for the petitioners states that the structures of the petitioners are still in existence. He states that as the structures are within the distance of 10 meters from Tansa Pipeline, in the event, the Municipal Corporation offers alternate accommodation to the petitioners, they are willing to shift to the alternate accommodation. We accept the statement. In view of this

statement, we direct that the petition shall be listed on 25th January, 2018 high upon board. We direct that the petitioners' structures shall not be demolished till the next date.”

2 The first to third respondents are unable to place any document on record to show whether eligibility of the petitioner for grant of alternate accommodation by the Municipal Corporation has been considered.

3 The learned counsel appearing for the petitioner contends that the petitioner has been held to be eligible for rehabilitation in a slum rehabilitation scheme which is sought to be implemented on the property.

4 In this Petition, we are concerned with the eligibility of the petitioner for grant of alternate accommodation on the ground that his structure is required to be demolished being falling within the distance of 10 meters from Tansa Pipeline. As stated in the order dated 19th December, 2017, the petitioner has shown willingness to shift to the alternate accommodation by vacating his structure if offered by the Municipal Corporation. In view of the solemn statement of the petitioner recorded in the order dated 19th December, 2017 we need not keep the Petition pending and the same is disposed of by passing the following order :-

ORDER

- (i) If the issue of eligibility of the petitioner to grant of alternate accommodation under the Tansa Pipeline Project (Water Pipeline Project) is already considered, the decision taken by the first respondent – Municipal Corporation shall be communicated to the petitioner within a period of two weeks from today. If the decision is not yet taken, the same shall be taken within a period of three months from today which shall be communicated to the petitioner. Till the date of communication of the decision to the petitioner, action of demolition against the structure of the petitioner shall not be taken;
- (ii) If the petitioner is held to be eligible for allotment of alternate accommodation, along with the decision on the issue of eligibility, alternate accommodation shall be offered to the petitioner. In such event, the structure in possession of the petitioner shall not be demolished for a period of three weeks from the date on which the alternate accommodation is offered to the petitioner to enable the petitioner to shift to the alternate accommodation;

- (iii) In the event the petitioner is held to be ineligible, action of demolition shall not be taken for a period of three weeks from the date on which the order is communicated to the petitioner to enable the petitioner to approach the appellate authority;
- (iv) Writ Petition is disposed of on above terms;
- (v) We make it clear that we have made no adjudication on the entitlement of the petitioner to secure alternate accommodation;
- (vi) We also make it clear that we have not dealt with the issue whether the petitioner is entitled for rehabilitation in slum rehabilitation scheme.

(PN. DESHMUKH, J)

(A.S. OKA, J)