

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO.3673 OF 2017**

Radheshyan Dhanilal Yadav and Ors.

..Petitioners

vs.

Municipal Corporation for Greater Mumbai
and Another

...Respondents

Mr. V. T. Dubey for the Petitioners.

Ms. Shital Mane for the Respondent-BMC.

Mr. A.P. Kulkarni for the Respondent-SRA.

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

DATE : 23rd FEBRUARY, 2018

P.C.:

. Heard the learned counsel for the Petitioners and for the Respondent No.1. The notice at Exhibit "B" to the petition proceeds on the footing that the structures of the Petitioners are required to be demolished as the same are falling within 10 meters from Tansa pipeline. However, in the said impugned order/notice, the Assistant Municipal Commissioner 'L' Ward has stated that the issue of eligibility for grant of alternate accommodation cannot be decided by the Municipal Corporation.

2. As per the directions issued in PIL 140 of 2006, the issue of eligibility for grant of alternate accommodation is required to be decided by Mumbai Municipal Corporation. The Assistant Municipal Commissioner has relied upon the decision by the Slum Rehabilitation Authority about eligibility of the Petitioners under a slum rehabilitation scheme.

3. The notice has been issued for demolition of the structures of the Petitioners on the ground that they are within 10 meters from the main water pipeline. Hence, the stand taken in the impugned order/notice

cannot be sustained. The Municipal Corporation will have to decide the issue of eligibility.

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

ORDER

- i) We direct the Petitioners to appear before the Assistant Municipal Commissioner, L ward of the Respondent No.1- Municipal Corporation on 15th March 2018 at 11.00 a.m. The Petitioners shall produce the requisite documents in support of their claim for eligibility;
- ii) The claim for eligibility shall be decided within a period of 3 months from today. The orders passed by the Assistant Municipal Commissioner, L ward of the Municipal Corporation shall be immediately communicated to the Petitioners;
- iii) If the Petitioners are held to be eligible, the letter of offer of rehabilitation containing all the particulars shall be served along with the order;
- iv) Till the date of communication of the order on the issue of eligibility and for a period of 3 weeks from the date of communication of the decision on the issue of eligibility to the Petitioners, the action of demolition in respect of the subject structures cannot be taken ;
- v) All contentions of the parties on the issue of eligibility of the Petitioners are kept open;
- vi) All concerned to act on the authenticated copy of this order.

(P.N. DESHMUKH, J)

(A.S. OKA, J.)