

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION (ST.) NO.14266 OF 2019

Laxmibai Sitaram Shinde ... Petitioner
Vs.
M/s. M. B. Development Corp. and others ... Respondents

Ms Aditi S. Naikare for Petitioner.
Mr. Gautam Ankhad a/w. Mr. Bharatkumar Jain i/b. Hariani and Co. for Respondents.

CORAM : R. G. KETKAR, J.
DATE : JUNE 6, 2019

P.C. :

Heard Ms Naikare, learned Counsel for the petitioner and Mr. Ankhad, learned Counsel for the respondents at length.

2. This Petition takes exception to the order dated 25.04.2019 passed by the Appellate Bench of the Small Causes Court at Mumbai in Miscellaneous Appeal No.73 of 2017. By that order, the Appellate Court allowed the appeal preferred by the respondents and set aside the order dated 08.11.2014 passed by the learned trial Judge below exhibit-9 in R.A.D.Suit No.643 of 2014. The Appellate Court dismissed the application exhibit-9 filed by the petitioner.

3. Mr. Ankhad has tendered communication dated 16.02.2018 addressed to the first respondent on behalf of the petitioner herein. The same is taken on record and marked 'X' for identification. In this letter, petitioner-plaintiff has expressed her readiness and willingness to surrender all her right, title and interest in the tenancy and possession of the suit premises provided first respondent giving permanent alternate accommodation as per the provisions of law, or in the alternative, petitioner finding out alternate premises in the near vicinity of about

Rs.90,00,000/- or so.

4. Mr. Ankhad submitted that respondents are not accepting contention of the petitioner that she is a tenant in the suit premises. However, with a view to resolving controversy between the parties, without prejudice to the rights and contentions of the respondents, they are ready and willing to offer permanent alternate accommodation. Till such time permanent alternate accommodation is ready, respondents are ready and willing to offer Rs.15,000/- per month as compensation, which is also paid to the similarly situate persons, or in the alternative, a temporary alternate accommodation admeasuring 220 sq.ft. carpet area in the near vicinity till such time a permanent alternate accommodation admeasuring 350 sq.ft. carpet area is made available.

5. Ms Naikare states that Ramesh Sitaram Shinde, son and Constituted Attorney of the petitioner is present in the Court. She has tendered photocopy of his Driving License, which is taken on record and marked 'Y' for identification. Upon taking instructions, Ms Naikare states that till such time, permanent alternate accommodation is made available to the petitioner, petitioner may be given transit accommodation admeasuring 220 sq.ft. carpet area in the near vicinity of the suit premises.

6. Mr. Ankhad, on instructions, assures that within 4 weeks from today, respondents will execute agreement for permanent alternate accommodation with the petitioner providing 350 sq.ft. carpet area and will also offer temporary transit accommodation admeasuring 220 sq.ft. carpet area to the petitioner within 6 weeks from today.

7. Ms Naikare, on instructions, states that upon execution of agreement for alternate permanent accommodation as also receiving

possession of 220 sq.ft. transit accommodation, petitioner will withdraw the Suit and handover possession of the premises presently in her possession and will also extend full co-operation for implementation of the redevelopment scheme.

8. Statements made by the learned Counsel for the parties, on instructions, are recorded.

9. In view of the consensus arrived at between the parties, no further orders are necessary to pass in this Petition. Writ Petition is disposed of accordingly.

(R. G. KETKAR, J.)

Minal Parab