

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10564 OF 2019

Mohammad Sabir Ayub Shaikh		
And Another	...	Petitioners
Versus		
State of Maharashtra		
And Others	...	Respondents

**ALONG WITH
WRIT PETITION (ST.) NO.26694 OF 2019**

Shahida Altaf Khan		
And Another	...	Petitioners
Versus		
The State of Maharashtra		
And Others	...	Respondents

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Mr. Shivraj Kunchge for the Petitioners.
Ms. Madhubala Kajle, 'B' Panel Counsel for Respondent Nos.1 and 3.
Mr. G.B. Walawalkar i/b Mr. S.P. Thorat for Respondent No.2.
Mr. S.G. Surana i/b Mr. Madhur Surana for Respondent No.4.

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CORAM : S.C. GUPTE, J.

DATE : 30 SEPTEMBER 2019

P. C. :

The grievance of the Petitioners in the present writ petitions is that despite pendency of their application for determination of eligibility under a Slum Rehabilitation Scheme ('S.R. Scheme') in respect of the suit structures occupied by them, the Competent

Authority is proceeding with demolition of the suit structures. It is submitted that the proposed demolition cannot take place unless and until a physical survey has been carried out of the suit structures. It is submitted that the suit structures consist of two premises, but the Respondents are recognizing only one of these two structures and determining the eligibility of the occupants on that basis. The Petitioners' grievance can be redressed, if a proper survey of the suit structures is ordered, before the structures are demolished and suitable directions are issued for expeditious disposal of their applications for eligibility and further directions on that basis to the Slum Rehabilitation Authority. The writ petitions are, accordingly, disposed of as follows :

: O R D E R :

- (i) The Competent Authority under Maharashtra Slum Areas (Improvement, Clearance And Redevelopment) Act, 1971 ("Slum Act") is directed to carry out physical survey of the suit structures occupied by the Petitioners in their two writ petitions. Such survey shall be carried out particularly with a view to ascertain whether the premises described by the Petitioners, are separate tenements or huts. The survey shall be carried out in the presence of the Petitioners or any one of them or their representative/s ;

(ii) Such survey shall be carried out within two weeks from the date this order is uploaded ;

(iii) The Competent Authority under the Slum Act shall determine the eligibility of the Petitioners within a period of four weeks from this order being uploaded. In case the Petitioners in Writ Petition No.10564 of 2019 and Petitioner No.1 in Writ Petition (St.) No.26694 of 2019 propose to make any further or fresh application/s in that behalf, they may do so within a period of two weeks from this order being uploaded on the server ;

(iv) In the meantime, pending determination of their eligibility, the Petitioners shall be entitled to be paid transit rent in the same manner as is done in the case of other slum-dwellers forming part of the S.R. Scheme ;

(v) If the Petitioners' eligibility is determined in their favour, Respondent No.4-developer as well as Slum Rehabilitation Authority, represented by Respondent Nos.1 to 3 herein, are directed to rehabilitate the Petitioners in their respective accommodation/s on the same lines as are being offered to the other slum-dwellers forming part of the S.R. Scheme ;

(vi) The suit structures could be demolished by the Competent Authority or developer only after this survey has been carried out and not before that.

(S.C. GUPTE, J.)