

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 211 OF 2018**

Nareshdevi Chettiwal	...Petitioner
Versus	
The State of Maharashtra & Ors.	...Respondents

Ms. Sadhna Kumar for the Petitioner

Mr. Abhay Patki, A.G.P for the Respondent No.1-State

Mr. Atul Damle, Sr. Advocate i/b Mr. S. S. Phatale for Respondent No. 3

Mr. Sagar Patil for the MCGM

**CORAM : B. P. DHARMADHIKARI &
REVATI MOHITE DERE, JJ.
WEDNESDAY, 30th JANUARY 2019**

P.C. :

1 Submission of petitioner is, petitioner runs a flour mill and in alternate accommodation being made available, the structure must be such that it can legally accommodate a flour mill. Contention is both, the order dated 10th August 2016 passed by Deputy Collector (Encroachment) and Competent Authority at Malad-3 or the further appellate order dated 20th January 2017 passed by Additional Collector (Encroachment) in appeal No. 778 of 2016 ignored this grievance.

2 Learned senior counsel appearing for respondent No.3-Developer fairly states that in a sanction plan, the suitable plot is already reserved and the structure legally sufficient to sustain a flour mill is being provided to petitioner. Our attention is invited to a block plan, which on left hand top corner shows a black square, half of it is affected by DP Road. Alternate structure is shown in the said map at bottom on its corner. It appears to be a triangular plot with a tangent.

3 We take this plan on record as Annexure-1 only for identification. Structure to which our attention is drawn, is again marked thereon in red lines with letters ABC.

4 As the map and statement has come on record for the first time, we find it appropriate to permit the first authority namely, Deputy Collector (Encroachment) and Competent Authority, Malad-3 to apply mind to this aspect. Only to facilitate that consideration, without observing anything on merits of controversy regarding said structure, we place matter back before that Authority. We permit developer as also petitioner to file their respective contentions before

that Authority within two weeks from today. The Authority shall thereafter extend an opportunity of hearing to petitioner and developer and pass suitable orders afresh in accordance with law.

5 Interim orders passed by this Court on 2nd February 2017 shall continue till then and shall be subject to that order.

REVATI MOHITE DERE, J.

B. P. DHARMADHIKARI, J.