

Mr.Nilesh Bharat Pande and Ors.	}	Petitioners
versus		
Apex Grievance Redressal Committee	}	
and Ors.	}	Respondents

Mr.P.K.Dhakephalkar-Senior Advocate
with Ms.Gargi Bhagwat i/b. M/s.Divekar
Bhagwat and Co. for respondent nos. 14
to 19.

DATED :- JUNE 12, 2019

1. Having heard Mr.Kapse appearing for the petitioners and perusing the order impugned in this petition, we are of the opinion that the rehabilitation project and to the benefit of the occupants, including the applicants/ petitioners before us, cannot be stalled or obstructed at the instance of parties like the petitioners. It is conceded before us that each of these petitioners are eligible occupants and they would be given a permanent alternate accommodation free of cost. Such an accommodation

would be made available on the very terms which have been extended to other similarly situate like the petitioners. The impugned order proceeds on the footings that the eviction notices have been given to the petitioners. They have preferred appeals against the eviction orders. However, it is evident from the record that in 2006, the slum dwellers on a plot of land at Santacruz, Mumbai appointed M/s.Shivalik Ventures Pvt. Ltd. as a developer. The slum dwellers have executed a permanent rehab agreement for grant of permanent rehab tenement at free of cost. However, such construction of rehab building is possible only when all the slum dwellers co-operate by vacating their structures. It has come on record that the scheme is devised for the benefit of total 100 slum dwellers, out of which, 82 occupants were found to be eligible. Out of 82 eligible slum dwellers, 73 i.e. 90% have given consent for redevelopment of the plot of land under Regulation 33(10) of the Development Control Regulations, 1991. Now, 48 out of these 82 and consenting parties have vacated their structures. The petitioners before us may not like the terms nor they may be unhappy with the acts of the co-operative housing society of which they are members, but we do not see how their resistance in law can be seen independent of the co-operative housing society. The petitioners have other legal remedies open to them to challenge the acts of the society.

However, they cannot resist the demolition notices and which are addressed to those slum dwellers who possess no right, title and interest in the immovable property. All that they are occupying are slum like structures which are basically encroachments. The State Government has formed an Authority to rehabilitate such slum dwellers who have occupied structures which were in existence prior to a cut-off date. If these conditions of eligibility are not challenged, but seem to be fulfilled by the above petitioners, then, they were expected to co-operate like others by removing themselves. That having not been done, the eviction notices and consequently the coercive action. The Authority, in the impugned order, finds no-objection in this step being taken by the statutory authorities. That is to facilitate the implementation of the slum rehabilitation scheme.

2. The petitioners moved an application seeking stay against the demolition and that has been decided by the Additional Chief Secretary, Housing. It is the petitioners who approached the Mantralaya authority and in the Department concerned. Now, it is not open to them to contend that the authority to whom they approached and who has passed the order had no jurisdiction to pass it. We do not think that we should assist such persons who want to delay the project further. Given that it has already been

hopelessly delayed, any further interference therewith by this court would only precipitate the sufferings of those who have vacated the structures and moved out.

3. For all these reasons and bearing in mind the conduct of the petitioners as well, we decline to entertain this writ petition. It is dismissed. There would be no order as to costs.

4. At this stage, a request is made to continue the ad-interim order. For the above reasons, we decline the request. It is refused.

(G.S.PATEL, J.)

(S.C.DHARMADHIKARI, J.)