

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.15 OF 2019
IN
WBIT PETITION NO.1962 OF 2018

Babulal G. Hingad and Ors. ... Applicants

In the matter between :

Babulal G. Hingad and Ors. ... Petitioners
Vs

**The Municipal Corporation for
Greater Mumbai and Ors. ... Respondents**

Mr.Ashok B. Mishra for the
Applicants/Petitioners.

Mr.R.S.Apte, Senior Advocate a/w
Ms.Rupali Adhate for the Respondents.

Mr.S.S.Tandale, Assistant Engineer
(Estate) present.

Mr.Mahesh Nandekar, Sub-Engineer
(Estate) present.

**CORAM :- S. C. DHARMADHIKARI &
B.P.COLABAWALLA, JJ.**

DATE :- APRIL 12, 2019

P.C. :-

1. By this Notice of Motion, the applicants are seeking the following three reliefs:-

"a) that this Hon'ble Court be pleased to direct the Respondents to execute the Agreement in favour of the Petitioners for their permanent accommodation as admitted by the respondents before this Hon'ble Court pursuant to Affidavit dated 02/08/2016 filed by Shri Sanjay Ramesh Thakur, AO (Estate) in Writ Petition No.2112 of 2015 in compliance or order dated 06th July, 2018 passed by this Hon'ble Court and the respondent be directed to give the specific period to redevelop the building known as Block 'A' 88 Municipal Tenements at B.A.Kidwai Road, Wadala, Mumbai - 400 031.

b) That unless and until the respondents complying the order dated 06/07/2018 thereby executing the documents and completing all the formalities for allotment of Permanent accommodation the respondents be restrained by the order and injunction of this Hon'ble Court thereby restraining the respondents to dispossess the petitioners from their rooms i.e. Block 'A' 88 tenements building, R.A.Kidwai Road, Wadala (W) in f north ward, Mumbai 400 031 in the manner whatsoever

c) That pending the hearing and final disposal of the Notice of Motion this Hon'ble Court be pleased to grant 8 Weeks time to Applicants for shifting at Mahadev Patilwadi SRA Building at Chembur unless the Respondents comply the order dated 06th July, 2018 passed by this Hon'ble Court."

2. After this Notice of Motion was argued for some time and the Court was disinclined to grant the prayers (a) and (b) in this Notice of Motion, Mr.Mishra restricted the request in terms of prayer clause (c).

3. We have heard both sides on this limited point insofar as the request in terms of prayer clause (c). After having heard both sides, we are of the view that interest of justice would be served, if we accede to the request of the applicants to grant them eight weeks time to vacate the existing premises and hand over vacant and peaceful possession thereof to the municipal officials.

4. For a period of eight weeks from today, on the applicants filing an undertaking in this Court, which undertaking shall be filed on or before 25th April, 2019, each one of them shall not be evicted. In the event, no undertaking is filed, the Municipal

Corporation can enforce its notices and orders thereafter and forcibly evict the applicants from the existing premises. In the event, the undertaking is filed, for a period of eight weeks from the date the undertaking is filed, the applicants shall not be evicted from the subject premises. However, the applicants shall not make any addition or alteration to the existing premises. The applicants shall clearly state in their undertaking that except themselves and their family members, none else or no third party is residing in the premises. They will not induct any third party in the premises either.

5. On these terms, the Notice of Motion is disposed of.

6. To enable the applicants to file their individual undertakings, we direct that the municipal officials shall not enforce their notices and orders till 25th April, 2019.

7. The applicants state that they would shift to the transit/alternate accommodation or accept compensation in lieu thereof, but would not return to the existing premises after their shifting. Similarly, the applicants would abide by all further orders in this writ petition.

(B.P.COLABAWALLA, J.)

(S.C.DHARMADHIKARI, J.)