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

WRIT PETITION NO.2083 OF 2012

Amirul Hasan Khan and ors	...	Petitioners.
V/s.		
State of Maharashtra and ors	...	Respondents

WRIT PETITION NO.2084 OF 2012

Vazirul Hasan Shafikul Hasan	...	Petitioner.
V/s.		
State of Maharashtra and ors	...	Respondents

- Mr. Omkar K. Shaikh a/w Ms. Chaitali Choudhari, for the Applicants in both the Motions.
- Mr. Milind More, Additional Government Pleader, for respondent Nos. 1 & 3.
- Mr. S. G. Surana, for respondent No.5.
- Ms. Pankaj Sutar a/w Mr. Rajeshwar N. i/by Jayakar & Partners, for respondent No.6.

CORAM : G. S. KULKARNI, J.

DATE : 1st MARCH, 2019.

P.C. :

1] By these petitions filed under Article 226 of the Constitution of India, the petitioners challenge the order dated 10.12.2012, passed by Respondent No.3 Deputy Collector (Encroachment and Removal), Dharavi Division, Mumbai City, as confirmed by the order dated 27.8.2012, passed by the Administrator and Divisional Commissioner, Konkan Division,

Mumbai, thereby directing the petitioners to evict the premises in question for the purpose of redevelopment.

2] The prayers as made in both the above petitions are identical and reads thus :-

(a) that this Hon'ble Court may be pleased to issue writ of certiorari or any other appropriate writ order or direction calling for the records from the Respondent Nos. 2 & 3 and after examining the same and after examining the circumstances leading to passing of the impugned order and judgment dated 10/4/2012 (Exh"A") passed by Respondent No.3 and order and judgment dated 27.8.2012 passed by Respondent No.2(Ex "C") this Hon'ble Court may be pleased to quash and set aside the order dated 10.4.2012, passed by the Respondent No.3 (Exh "A") and order dated 27.8.2012 passed by the respondent No.2 (Exh "C").

3] It is not in dispute that the premises which the petitioners were occupying were demolished on 5th October, 2012 and in view of the demolition, the impugned order which directed the eviction of the petitioners, was rendered inconsequential. This Court on 2nd November, 2012 had admitted these petitions by the following order which is similar in both these petitions. :-

“1. Rule.

2. In view of the fact that the structures claimed by the petitioners have

already been demolished on 5th October 2012, there can be no interim relief in the petitions. The petitioners have already filed an application before the appropriate authority for consideration of their eligibility for allotment of permanent alternate accommodation. In the event the petitioners succeed in establishing their eligibility, they would be entitled to permanent alternate accommodation in the building to be constructed by way of redevelopment of the property.

3. Mr. Surana states that, respondent No.5 will be paying Rs.10,000/- p.m. in respect of each structure referred to in the order datd 10th April, 2012 for a period of 11 months.

4] Being aggrieved by the aforesaid order, passed by the learned Single Judge, the petitioner had approached the Division Bench in Appeal No.97 of 2013. The Division bench, by order dated 18th July, 2013, disposed of the said appeal while observing that there was no need to interfere in the order dated 2.11.2012, passed by the learned Single Judge. However, in respect of deposit of the rent, the Division Bench has modified the orders passed by the loearned Single Judge on payment of compensation in lieu of transit accommodation to be from 10th April, 2013 till the date of the order on the petitioners' application for eligibility, subject of course, to the petitioners being held eligible. The relevant observations made by Division Bench of this Court, reads thus :-

“There is no warrant to intefere with the order dated 2nd November 2012. T he learned Judge has observed that in the event of the petitioners' establishing their eligibility, they would be entitled toa permanent alternate accommodation in the building to be constructed by way of reconstruction.

We would only modify the order by providing that the compensation in lieu of the transit accommodation shall be paid even after the period specified in paragraph 3 of the order i.e. from 10th April, 20-13 till the date of the order on the petitioners' application for eligibility subject of course, to the petitioners being held eligible.

5. On the above backdrop the only concern of these petitioners, is in regard to entitlement of the compensation for the transit accommodation as recorded by the learned Single Judge and as modified by the Division Bench, in the order as noted above. Learned counsel for the petitioners submits that Applications filed before the Competent Authority by the petitioners for establishing their eligibility for permanent alternate accommodation are applications dated 17th August, 2012 which are till date pending decision. The details of which are stated to be furnished to the learned Additional Government Pleader to be forwarded to the concerned authorities.

5] In these above circumstances, the contention of the petitioners is that the substantial time has passed for determining the eligibility of petitioners the competent authority should take expeditious decision on those applications.

6] In the light of above discussion, it is clear that the substantial

prayers as made in the petitions cannot be granted as the structures of the petitioners are already demolished. In fact these petitions have become infructuous and need to be disposed of. Hence the following order:-

Order

- i) As the structures of the petitioners are demolished on 5th October, 2012, prayer (a) as made in the petition is rendered infructuous.
- ii) The Applications filed by the petitioners for determination of their eligibility are stated to be pending. If such applications are pending for determination of the competent authority, the competent authority shall decide the petitioner's applications as expeditiously as possible and preferably within a period of six months from today.
- iii) The petitioners are directed to approach the competent authority with copies of their applications along with evidence of filing of their applications at the first instance on 8th March, 2019 at 11.00 a.m.
- iv) The petitioners are at liberty to prosecute and pursue the remedy as available and/or for receiving the amounts of compensation in lieu of transit accommodation as per the orders passed by this Court in the present petitions and the orders passed by the division bench in the appeal.
- v) Both the petitions are disposed in above terms.
- vi) Rule discharged.

[G. S. KULKARNI, J]