

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

INTERIM APPLICATION NO.1 OF 2019

IN
WRIT PETITION NO.3552 OF 2018

WITH

NOTICE OF MOTION NO.278 OF 2019

IN
WRIT PETITION NO.3552 OF 2018

Sherkhan Nazir Mohd. Khan
& Anr.

.... Applicants

In the matter between

Sherkhan Nazir Mohd. Khan
& Anr.

.... Petitioners

Vs.

The Assistant Engineer,
(Maint.) "N" Ward & Others

.... Respondents

Mr. S.G. Kudle for the Applicants/Petitioners.
Ms Kejali H. Mastakar for Respondent Nos.1 & 3.
Mr. Hemant Haryan for Respondent Nos.2 & 7.
Mr. Amol Jagtap h/f Mr. Abhijeet Desai for
Respondent No.4.
Mr. Prashant Nakati for Respondent No.5.

CORAM: S.C. DHARMADHIKARI &
R.I. CHAGLA, JJ.

DATE : DECEMBER 09, 2019

P.C:

1. At the request of the learned Advocate holding for Mr. Abhijeet Desai, the Advocate appearing for the developer and the Advocate appearing for the Municipal Corporation (respondent Nos.1 and 3) and in order to enable them to get

copies of the interim application and file affidavits, we place these matters on **6-1-2020**.

2. They shall be listed high on board.

3. Mr. Kudle says that so long as the impugned Notice calls upon his clients to surrender a portion of the property so as to enable the Municipal Corporation to widen the road, his clients have no objection but the applicants/original petitioners must be treated as project affected persons and granted the attendant benefits. The complaint is that, they are treated as inhabitants of a slum locality/slum dwellers and that will deprive them of the benefits as project affected persons.

4. We think that some clarification is necessary from the respondents on this aspect of the matter and therefore they must file affidavits. All affidavits be filed before 21-12-2019 with advance copies to Mr. Kudle.

5. Meanwhile and without prejudice to the rights and contentions of the applicants/original petitioners, let them co-operate with respondent Nos.1 and 3 and surrender that portion of the property belonging to them so as to enable these respondents to widen the road. That is a public project and subserving larger public interest. That must override the private interest of the applicants. It is only with that endeavour and

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causing no harm or prejudice to the applicants' rights and contentions that we have issued this clarification.

(R.I. CHAGLA, J.)

(S.C. DHARMADHIKARI, J.)

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