

Vidya Amin

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 7798 OF 2021

Satish Ramchandra Hawaldar

... Petitioner

V/s.

The State of Maharashtra & Ors.

... Respondents

Ms. Neha R. Parte for the petitioner.

Mr. S.H. Kankal, AGP for the State/respondent no. 1.

Ms. Aparna D. Vhatkar for respondent no. 2/SRA.

CORAM : G.S.KULKARNI, J.

DATE : 23 November, 2021

P.C.:

1. Heard learned counsel for the petitioner, learned AGP for respondent no. 1/State, Ms. Vhatkar for respondent no. 2 and Mr. Khandeparkar for respondent no. 3-developer. Respondent no. 4-Society though served is not represented and may not be contesting respondent. Also respondent no. 5 has not appeared despite the order passed by this Court on the earlier occasion.

2. The challenge in this petition is to an order dated 15 November, 2021 passed by respondent no. 2 in the proceedings initiated against him under sections 33 and 38 of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (for short "**the Act**"). As the petitioner apprehends

demolition of his structure, this petition was urgently moved before this Court on 17 November, 2021 when ad-interim protective orders were passed, which was continued to remain in operation till date.

3. Mr. Khandeparker, learned counsel for respondent no. 3 as also Ms. Vhatkar, learned counsel for respondent no. 2/SRA have pointed out that the petitioner's name has not been included in Annexure-II.

4. Learned counsel for the petitioner has submitted that the petitioner has filed appropriate proceedings for inclusion of his name in Annexure-II and hence he would be entitled for a temporary alternate accommodation. Learned counsel for the petitioner submits that the proceedings qua the eligibility of the petitioner are pending before the Additional Collector (City), a copy of such application as filed by the petitioner is annexed to the petition at Exhibit 'F' (Page 23), which is stated to be filed on 24 August, 2021. She, therefore, submits that the petitioner would be entitled for the reliefs as prayed for.

5. Mr. Khandeparkar submits that the petitioner cannot hold on

to the structure in question and needs to vacate the structures so that the same can be demolished to enable respondent no. 2 to proceed to implement the slum scheme, which is substantially in progress and in executing such scheme already about 2000 odd slum dwellers are occupied. Mr. Khandeparker, on instructions, also submits that in the event the petitioner is declared to be eligible, the petitioner would be paid rent for the temporary alternate accommodation with retrospective effect from the date the petitioners vacates the structure. Such approach on the part of respondent no. 3 is fair and required to be accepted.

6. The petitioner in the absence of any eligibility and his name not even being included in Annexure-II cannot take an adamant stand that he would not vacate and cause hurdles in the implementation of the scheme which is being executed in the larger interest of the majority of the slumdwellers.

7. In the above circumstances, in my opinion, accepting Khandeparkar's statement as noted above, the petition can be disposed of by the following order:

- (i) The petitioner shall vacate his premises within a period of four weeks from today. There shall not be further

extension in that regard on any ground whatsoever.

(ii) All the usual formalities in regard to the measurement etc. of the petitioner's structure be carried out prior to the petitioner vacating the said structure as directed.

(iii) The statement as made on behalf of respondent no. 3 that in the event if the petitioner is declared to be eligible for allotment of a permanent alternate accommodation, respondent no. 3 shall make payment of rent for a alternate accommodation with retrospective effect from the date the petitioner vacates his premises, is accepted as an undertaking to the Court.

(iv) The Additional Collector (E/R) shall decide the pending appeal, if any, of the petitioner as expeditiously as possible and preferably within a period of three weeks from today, as also informed to learned AGP by the Additional Collector by his letter dated 22 November, 2021.

(v) In the event, the petitioner does not vacate the structure as directed, respondent nos. 1 and 2 shall proceed to take appropriate action as permissible in law against the petitioner.

(vi) All contentions of the parties in the pending appeal are expressly kept open.

8. Petition is disposed of in the above terms. No costs

(G.S.KULKARNI, J.)