

Vidya Amin

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

WRIT PETITION NO. 7919 OF 2021

Shobha Dashrath Lad & Ors.

... Petitioners

V/s.

The State of Maharashtra & Ors.

... Respondents

Mr. S.M. Sabrad a/w. Ms. Neha R. Parte for the petitioners.

Mr. P.P. Pujari, AGP for the State.

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

Mr. Mayur Khandeparkar a/w. Mr. Nilesh Ranawad, Ms. Disha Shetty, Mr. Mustaqueem Bagsaria i/b. Wadia Gandy & Co. for respondent no. 3.

CORAM : G.S.KULKARNI, J.

DATE : 23 November, 2021

P.C.:

1. Not on board. Taken on board on a praecipe as moved on behalf of the petitioners.

2. Heard Mr. Sabrad, learned counsel for the petitioners, Mr. Pujari, learned AGP for respondent no. 1/State, Ms. Vhatkar for respondent no. 2 and Mr. Khandeparkar for respondent no. 3. Respondent no. 4-Society though served is not appearing and may not be contesting respondent. Also respondent no. 5 is not appearing.

3. The petitioners are occupying slum structures, which are stated to be commercial units falling under the area of slum scheme being undertaken by respondent no. 3. The challenge in

this petition is to an order dated 10 November, 2021 passed by respondent no. 2 in the proceedings under sections 33 and 38 of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (for short "**the Act**"). As the petitioners apprehended demolition of their structure, this petition is moved urgently. In this case, the petitioners are not declared to be eligible for allotment of a permanent alternate accommodation. It is pointed out by Mr. Sabrad that appeals have been filed by the petitioners in regard to their ineligibility, which are pending before respondent no. 5-the Additional Collector (E/R) and Appellate Authority.

4. Mr. Khandeparkar submits that the petitioners cannot resist vacating them 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 already about 2000 odd slum dwellers are occupied. Mr. Khandeparkar, on instructions, also submits that in the event the petitioners are declared to be eligible, the petitioners shall be paid rent by his clients for the permanent alternate accommodation with retrospective effect from the date the petitioners vacates their respective structures. Such approach on the part of respondent no. 3 is fair and required to be accepted.

5. Mr. Sabrad, learned counsel for the petitioners submits that the structure in occupation of the petitioners are commercial structures, hence a reasonable time be granted to the petitioners to vacate their structures.

6. The petitioners in the absence of any eligibility and their names not even being included in Annexure-II cannot take an adamant stand that they 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 slumdweller.

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

(i) The petitioners shall vacate their respective 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 petitioners' structure be carried out prior to the petitioners' vacating the said structures as directed.

(iii) The statement as made on behalf of respondent no. 3 that in the event if the petitioners are declared to

be eligible for allotment of a permanent alternate accommodation, respondent no. 3 shall make payment of rent for an alternate accommodation with retrospective effect from the date the petitioners vacates their respective structures, is accepted as an undertaking to the Court.

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

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

(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.)