

Vidya Amin

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

WRIT PETITION NO. 538 OF 2021

Mradulla P. Sheth & Ors.

... Petitioners

vs.

Union of India & Anr.

... Respondents

Mr. A.M. Saraogi for the petitioners.

Mr. Suresh Kumar for the respondent-UOI.

Ms. Vandana Mahadik for the MCGM.

**CORAM :- DIPANKAR DATTA, CJ &
G. S. KULKARNI, J.**

DATE :- JULY 3, 2021

PC :

1. The Court fees put in by the petitioners are in deficit. Mr. Saraogi, learned advocate for the petitioners submits that the deficit court fees shall be put by the petitioners by Monday next.

2. The petitioners have been declared unauthorized occupants of public premises in proceedings initiated against each of them under the relevant provisions of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 and the orders passed by the Estate Officer in this behalf have been carried in appeals under section 9 of the Act. Admittedly, the appeals are pending.

3. Confronted with the situation that unless the appeals succeed and the orders of the Estate Officer under challenge are set aside, the

petitioners may not have any right to relief as claimed in this writ petition, Mr. Saraogi, learned advocate for the petitioners has prayed for withdrawal of the writ petition. He, however, submits that all points on merits may be kept open for decision by the Appellate Authority under the Act.

4. The writ petition, accordingly, stands dismissed as withdrawn. No costs.

5. All contentions on merits are kept open to be urged by the petitioners before the Appellate Authority for a decision by it.

6. We, however, observe that hearing of the appeals shall not proceed unless the petitioners put in the deficit court fees by Monday next and produce evidence to that effect before the Appellate Authority. If the Appellate Authority is satisfied that the deficit court fees have been put in by the petitioners, the appeals preferred by the petitioners may be considered and disposed of on merits and in accordance with law, as early as possible.

7. Needless to observe, the petitioners shall be at liberty to initiate appropriate proceedings for the reliefs as prayed for in the petition only if they unconditionally succeed in the appeals before the Appellate Authority.

(G. S. KULKARNI, J.)

(CHIEF JUSTICE)