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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8759 OF 2021**

Mahendra Kumar Ramdev Yadav Petitioner.
V/s
Samrat Ashok Nagar SRA CHS Proposed
President/Secretary and Ors. Respondents.

Mr. Rakesh Kumar R. Tiwari for the Petitioner.
Mr. Vinay J. Bhanushali for Respondent No.2.
Mr. Ajay Patil for Respondent No.3.
Mr. Vijay D. Patil for Respondent No.4/AGRC.

CORAM: NITIN W. SAMBRE, J.

DATE: JUNE 06, 2022

P.C.:-

1] Heard Mr. Tiwari, learned Counsel for the Petitioner. His contentions are, the order impugned requires interference as an issue of eligibility qua residential premises is pending adjudication and that being so, if the order impugned is permitted to be implemented, Petitioner will be rendered homeless. According to him, there has to be finding of this Court that the Petitioner is eligible for residential accommodation also and Respondent No.1/Developer be directed to reimburse the rent towards the accommodation of the Petitioner.

2] I have appreciated the said submissions in the light of resistance shown by the Respondents in the present Petition. Mr. Vijay Patil Counsel Respondent No.4 – Apex Grievance Redressal Committee (“AGRC”) informs that AGRC has already protected interest of the Petitioner with the following observations made in order dated 06/09/2021 in Application No.39 of 2021:-

“3) During hearing Advocate for Respondent No.3 M/s Samarth Erectors and Developers submitted that the case of Respondent No/. 3 is as follows:

- a) Applicant is claiming eligibility for two structure i) commercial premises ii) Residential premises.
- b) Applicant is having ground plus first floor structure. On the ground floor he is running his business for which he has been declared eligible and First floor is used as Residential premises for which he is non eligible.
- c) Further Respondent No.3 is ready to provided residential permanent alternate

Accommodation if Applicant is been declared eligible for commercial Premises. Further Respondent No.3 M/s Samarth Erectors and Developers has made arrangement for Commercial premises i.e. shop No.11 for Applicant under subject SR Scheme.

In view of same Advocate for Respondent No.3 requested this Committee to dismissed the present Application.”

3] AGRC was of the view that the Petitioner is eligible for commercial tenement at Serial No.82. Respondent No.3 - SRA made submissions before the AGRC that they are willing to provide permanent residential accommodation to the Petitioner if he is declared eligible for residential premises. Apart from above, a categorical statement is made by M/s Samarth Erectors and Developers that an arrangement for commercial premises i.e. shop no.11 is already made in favour of the Petitioner under the subject SR Scheme. Counsel for Respondent No.3 - SRA on instructions submits that in case if Petitioner is held to be eligible for residential premises including commercial one, the said orders shall be duly honoured.

4] In the aforesaid backdrop, having regard to the fact that claim of the Petitioner of his entitlement or eligibility qua residential premises is already subjudiced in an independent proceedings and the Petitioner's interest to the extent of his eligibility for commercial premises is already taken care of, I hardly see any reason which warrants interference in the order impugned. Petition as such fails and same stands dismissed.

5] Counsel for the Petitioner on instructions made a categorical statement that Petitioner shall be vacating the suit premises by handing over vacant possession of the same to the Respondent – SRA on or before 13th June, 2022 by 10.00 A.M. Since the statement is made on instructions, same is accepted as an undertaking to this court. As such the Petitioner's possession stands protected till 12 Noon of 13th June, 2022. Needless to clarify that since the project is already delayed because of pendency of this proceeding, no further extension on whatsoever count shall be granted.

(NITIN W. SAMBRE, J.)