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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11954 OF 2019

Aniket S. Ghate	...Petitioner
V/s.	
The City and Industrial Development Corporation (Maharashtra) Limited & Ors.	...Respondents

Mr.Sachin S. Punde for the Petitioner.

Mr.Ashutosh M. Kulkarni with Ms.Akansha Helaskar for the Respondent Nos.1 to 4.

Mr.Rajan S. Pawar, AGP for the Respondent Nos.5 to 7.

CORAM : R.D. DHANUKA &
S.M. MODAK, JJ.
DATE : 4TH FEBRUARY, 2022.
(THROUGH VIDEO CONFERENCE)

P.C. :-

1. By this petition, the petitioner seeks a writ of mandamus directing the respondent no.3 to produce all the papers and documents in respect of the impugned notice dated 16th October, 2019 and also prays for writ of certiorari for quashing and setting aside the public notice dated 16th October, 2019 issued by the respondent no.3 insofar as it relates to serial no.50 of the impugned notice.

2. It is the case of the petitioner that the petitioner was

allotted a premises vide letter dated 13th October, 2015 by the respondent no.1 in lieu of the residential premises. The said allotment was subsequently cancelled vide order dated 27th April, 2018. The respondent no.1 thereafter issued a public notice for demolition on 16th October, 2019 which is impugned by the petitioner in this writ petition.

3. Mr.Punde, learned counsel for the petitioner submits that no notice was given by the respondent no.1 before cancelling the letter of allotment thereby allotting permanent alternate accommodation on the basis of the residential premises occupied by the petitioner.

4. It is submitted by the learned counsel that the petitioner is entitled to certain rights under the policy framed by the respondent no.1 and thus till the petitioner gets permanent alternate accommodation according to the said policy, the petitioner is not bound to vacate the premises.

5. Mr.Kulkarni, learned counsel for the respondent nos.1 to 4 on the other hand invited our attention to the averments made by the petitioner himself in paragraph 3 of the writ petition and would submit that it is admitted by the petitioner that the petitioner has constructed the structure on the land acquired for Navi Mumbai Project. He submits that the petitioner was though offered permanent alternate

accommodation in lieu of the residential structure No.338A admeasuring 32.67 sq. mtrs at village wadhghar (Chinchpada), the Grievance Redressal Committee of CIDCO found that the structure of the petitioner was of commercial nature having shutter and not residential. The Committee considered the photographs and video taken at the time of the survey of the said area. The Grievance Rederessal Committee accordingly prepared a report on the basis of the material on record and recommended that the residential premises allotted in favour of the petitioner should be cancelled and a fresh allotment as per commercial eligibility should be made. The Grievance Rederessal Committee accordingly approved the allotment of commercial premises as and by way of permanent alternate accommodation in stead of residential premises by cacelling the said allotment. The petitioner however, has not accepted the said permanent alternate accommodation of the structure as commercial structure.

6. We have seen the photographs annexed by CIDCO in the affidavit in reply at page 62 of the affidavit in reply which is not disputed by the petitioner. The petitioner is even today unable to produce any document in support of his case that the said premises were used by the petitioner as residential premises. It is not in dispute that the said structure occupied by the petitioner is

unauthorized.

7. The respondent no.1 requires the said plot on which the impugned structure is situated for Navi Mumbai International Airport Project.

8. In our view, there is no merit in the petition. The writ petition is dismissed. The petitioner is directed to hand over vacant possession of the structure alleged to be in possession of the petitioner within one week from today to the respondent no.1, without fail and to shift to the permanent alternate accommodation offered by the respondent no.1. It is made clear that if the vacant possession is not handed over by the petitioner to the respondent no.1 within one week from today, the respondent no.1 would be at liberty to take forcible possession and if necessary with the assistance of the police.

9. The writ petition is dismissed. There shall be no order as to costs. Parties to act on the authenticated copy of this order.

(S.M. MODAK, J.)

(R.D. DHANUKA, J.)

VASANT
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