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

WRIT PETITION NO. 1998 OF 2017

Shailesh Ramashray Upadhyay Petitioner

Vs.

Slum Rehabilitation Authority
And Others Respondents

Mr.Shailesh R. Upadhyay, Petitioner present in person

Mr. Sagar Patil for the BMC

Mr.L.T.Satelkar, A.G.P. for Respondent no.3 / State

Mr.Atul Damle, Sr.Advocate a/w Mr.Rupesh Lanjekar, Mr.Rizwan
Qureshi for Respondent no.4

Mr.Prithviraj S. Gole h/f Mr.Sandesh D. Patil for the Respondent /
SRA

**CORAM: S.V.GANGAPURWALA &
R.N. LADDHA, JJ.**

DATED : OCTOBER 11, 2022

P.C.

1 Mr.Shailesh R. Upadhyay, Petitioner party in person submits that the Respondent developer has constructed over the DP Road. The Petitioner seeks to rely on google site image. According to the party in person, DP road was not handed over to the Municipal Corporation by the developer. Party in person submits that he has categorically made the statement in the rejoinder also that the possession of the DP road is not handed over and the developer has

converted DP road into play ground.

2 According to the Respondent, Petitioner was a slum dweller. He is allotted a tenement in the rehab building and when the sale component commenced present Writ Petition is filed to obstruct.

3 On 28.09.2022 we had recorded the statement of the party in person that the DP road on site is not maintained as per the plan. Construction is being carried out by the builder on the DP road whereas it is the contention of the Respondent that construction of the building is completed and roads are also handed over to the authority. Petitioner has placed on record information received by him from SRA under Right to Information Act stating that there is no information available on record regarding handing over DP road and there is no receipt available in the office record today.

4 The learned counsel for the Corporation has placed on record possession receipt on 10.07.2019 to suggest that DP Road is constructed and that possession of the same is handed over to the Corporation.

5 It would not be possible in the writ jurisdiction to embark upon

the investigation of facts as is contended. The learned counsel for the Municipal Corporation has placed on record possession receipt dated 10.07.2019 to demonstrate that the DP road is constructed and owner is liable to maintain DP road for a period of one month from the date of receipt. Joint measurement is carried out.

6 If at all, according to the Petitioner, DP road is not maintained, it is for the Corporation to take appropriate steps in that regard.

7 It is for the Corporation and SRA to verify for themselves about the existence of the DP road as per the DP plan. Respondent Corporation and SRA has filed affidavit on record so also the possession receipt. Possession Receipt is also filed by the Corporation substantiating that the DP road is constructed.

8 In light of that, in writ jurisdiction under Article 226 of the Constitution of India it is not possible to take any different view.

9 In case it is shown by the Petitioner to the planning authority about the road not being available as per the development plan, then it will be within the domain of the planning authority to take appropriate steps in that regard.

10 Writ Petition is disposed of. No costs.

(R.N. LADDHA,J.)

(S.V. GANGAPURWALA, J.)