

Amol

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 5303 OF 2022**

Mohd Akbar Abdul Qayyum Idrisi ...Petitioner
Versus
The State of Maharashtra & Ors ...Respondents

Mr AM Saraogi, for the Petitioner.
Mr Hmanshu Takke, AGP, for the Respondent-State.
Mrs PH Kantharia, for the SRA.
Mr Shakeeb Shaikh, with N Patel, i/b Diamondwala & Co., for the
Respondent No. 4.

**CORAM G.S. Patel &
Neela Gokhale, JJ.**
DATED: 24th February 2023

PC:-

1. The dispute is between the two brothers, the Petitioner and the Respondent No. 3 (since deceased, and whose interests are now in the hands of his widow). Each claims entitlement or eligibility for rehabilitation of the premises in lieu of Room No. 67, Ground floor, Janta Sevak Society, Mori Road, Mahim, Mumbai 400 016. The other Respondents to the Petition include the Slum Rehabilitation Authority (“SRA”) and the developer.

2. It is the Respondent No. 3 who was found eligible.

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3. The Petition from paragraph 1 onwards contains seriously disputed question facts of title, about possession and so on. We find this in paragraph 1 and then in paragraphs 2(b), 2(c) and 2(d). The Petition accepts that the Petitioner has filed a Short Cause Suit No. 3208 of 2019 and that suit is pending. There are interlocutory proceedings.

4. There is no question of granting the principal relief which is direction for the SRA to consider the documents of the Petitioner herein and consider his eligibility. His eligibility has been dealt with in the sense that for the structure in question Respondent No. 3 was found eligible. If there is a factual dispute as to those records, the Petitioner's remedies lie elsewhere.

5. The Petition is without merits and is rejected. There will be no order as to costs.

6. The pending civil proceedings will be decided on their merits unaffected by the order in this Writ Petition.

7. Mr Saraogi seeks liberty to apply to the City Civil Court for a early hearing. We only grant him the liberty to seek such a liberty from that Court. We ourselves do not make any order of expediting the hearing or of an early hearing, being acutely mindful of the work and time pressures on the judges of the City Civil Court.

(Neela Gokhale, J)

(G. S. Patel, J)