

Prajakta Vartak

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

WRIT PETITION NO. 3003 OF 2022

Zulfikar Ali Abdul Rahim Shaikh

.Petitioner

Vs.

The Municipal Corporation of
Greater Mumbai & Ors.

.Respondents

Mr. Amit Jamsandekar i/b. Mr. Viqar Rajguru, Mr. Aditya Navpute and
SA Legal Advocates and Associates for Petitioner.

Ms. Pooja Yadav for MCGM.

Mr. Harish Pandya with Mr. Vishal Ramanand Mr. Aamir Koradia i/b. Mr.
Rajendra Rathod for Respondent No.5.

CORAM : G. S. KULKARNI &
R. N. LADDHA, JJ.

DATE : MARCH 21, 2023

P.C.:

1. We have heard Mr. Jamsandekar, learned counsel for the petitioner, Ms. Pooja Yadav, learned counsel for the Municipal Corporation and Mr. Pandya, learned counsel for respondent no.5. We have also perused the earlier orders passed on the present writ petition.

2. The petitioner is asserting occupancy/tenancy rights in respect of the premises which according to him, were held by him at the time when the building in question i.e. 'Sutterwala Chawl' came to be demolished. It appears from the record and as noted in the earlier orders passed by a Co-

ordinate Bench of this Court, the Assistant Commissioner who is the authority to decide eligibility of the occupants/tenants for a permanent alternate accommodation to be allotted in the redevelopment to be undertaken by respondent no.5 in respect of the demolished building, has not held the petitioner to be eligible for a permanent alternate accommodation.

3. On a perusal of the record, it appears that there are prior disputes between the petitioner and respondent no.5 *inter alia* on the occupancy rights. This is clear from the fact that the petitioner has already filed a civil suits bearing S.C. Suit No. 1641 of 2014 before the Bombay City Civil Court, asserting his rights in regard to lawful exclusive use, occupation and enjoyment and uninterrupted possession of the suit premises as described in prayer clause (a) of the plaint in the said suit. There are substantive reliefs as prayed for in the suit which are reliefs in terms of prayer clauses (a) to (e) of the plaint. Also there are interim reliefs which are prayed for. This apart there is one more suit filed by the petitioner being L. C. Suit No.1940 of 2019 before the Bombay City Civil Court.

4. Considering the complexion of such disputes, in our opinion, it is appropriate that the petitioner asserts all his contentions in the pending suits including to obtain any interim orders on the basis of whatever materials are available to the petitioner. All contentions of the parties in

that regard are kept open to be agitated in the said suit. Ordered accordingly.

5. Mr. Jamsandekar, learned counsel for the petitioner submits that the petitioner would take appropriate steps within a period of 10 days to move the City Civil Court in the appropriate proceedings. In order to enable the petitioner to do so, ad-interim protection granted earlier in the present proceedings, is continued to operate for a period of 15 days from today.

6. It is clarified that the extension of the ad-interim reliefs is no manner any expression on the merits of the rival contentions of the parties and the Civil Court shall decide the proceedings before it independently and without being influenced by continuation of such protection.

7. The petition stands disposed of in the above terms. No costs.

8. Parties to act on an authenticated copy of this order.

[R. N. LADDHA, J.]

[G. S. KULKARNI, J.]