



Darshan Patil

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 26177 OF 2024

Jafar Ali Nawab Ali Choudhari and Ors. ...Petitioners
Versus
Municipal Corporation of Greater Mumbai and ...Respondents
Ors.

Mr Akash Giri, a/w Aslam Shaikh, Vikash Giri, Khawja B Tabrez,
Mustafa Abbas Hussain, Mohd. Umar i/b Judicare Law
Associates, for the Petitioners.
Adv S V Tondwalkar, for the Respondent-BMC.

CORAM **M.S. Sonak &
Kamal Khata, JJ.**
DATED: **22nd August 2024**

PC:-

1. Heard learned counsel for the parties.
2. Rule. The Rule is made returnable immediately at the request of and with the consent of the learned counsel for parties.
3. Learned counsel for the petitioners relies upon the order dated 23 March 2021 made in SLP No. 4441 of 2020 instituted by the present petitioners and the judgment and order dated 06 November 2023 in Civil Appeal arising from SLP No. 4441 of 2020. He submits that until and unless alternate accommodation is provided to the petitioners, the petitioners' structures cannot be

demolished, or the petitioners cannot be vacated from the structures which they presently occupy.

4. Learned counsel for the petitioners submits that by communication dated 03 August 2024, the BMC has acknowledged its responsibility to provide alternate accommodation to the petitioners, but still, without issuing any allotment order and placing the petitioners in possession of such alternate accommodation, the BMC has threatened the demolition of the petitioners' structures within three days without any further notice.

5. Ms Tondwalkar, learned counsel for the BMC, based on instructions from Mr Bhupesh Rane, Assistant Engineer (Maintenance), K East Ward, states that the petitioners will not be vacated or their structures will not be demolished until a proper allotment order is issued in their favour allotting them alternate premises of which the BMC already approves proposal in terms of the letter dated 03 August 2024. She states that such an allotment letter would be issued in about 15 days, and about a week would be granted to the petitioners to relocate at such alternate premises.

6. By accepting the above statement and directing the BMC to act accordingly, we dispose of this Writ Petition. Along with the allotment letter, BMC must issue the necessary NOCs to enable the petitioners to obtain electricity and water connections, subject to petitioners complying with the prescribed compliance.

7. Given the above statement, we set aside the impugned communication dated 03 August 2024. In fact, we are quite surprised as to why such a communication should have been issued

to the petitioners, thereby forcing them to rush to the Court. The petitioners are protected by not less than two orders of the Hon'ble Supreme Court. In such circumstances, there was no justification for issuing the impugned communication, which we now set aside.

8. In the above circumstances, we direct the BMC to pay Rs.25,000/- as costs to the petitioners before they are directed to shift to the alternate accommodation. Without paying such costs, the BMC will not insist upon the petitioners shifting to the alternate accommodation or proceeding to demolish the structures that the petitioners presently occupy.

9. The Commissioner should investigate the circumstances in which the impugned communication dated 03 August 2024 was issued despite two orders of the Hon'ble Supreme Court protecting the petitioners and fixing the responsibility of the officers responsible for issuing this communication. The BMC is to pay the costs of Rs.25,000/- to the petitioners but recover these costs from the officers responsible for issuing this communication dated 03 August 2024.

10. The Rule is made absolute in the above terms. All concerned to act on the authenticated copy of this order.

(Kamal Khata, J)

(M.S. Sonak, J)