

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 1764 OF 2021

Umar Abdul Gani & Ors .. Petitioners

Versus

Collector of Mumbai City District & Ors .. Respondents

WITH
INTERIM APPLICATION (L)NO.29291 OF 2021
IN
WRIT PETITION NO.1764 OF 2021

ANJALI
TUSHAR
ASWALE

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Harshad S. Shetye ..Applicant/intervener

IN THE MATTER BETWEEN

Umar Abdul Gani & Ors ..Petitioners

Versus

Collector, Mumbai Cit & Ors ..Respondents

Mr.Zal Andhyarujina, Senior Advocate, with Mr.Kunal Dwarkadas, Punit Damodar, Nikita Vardhan, Raveena Kinkhabwala & Vidyashree Perla i/b Kanga & Co, Advocates for the Petitioners.

Mr.Kurle i/b Yashas Legal, Advocates for the Applicant in IAL.29291/21.

Mr.Mohit Jadhav, Addl. G. P. with Manush Upadhyay, AGP, for the State.

Mr.Mayur Khandeparkar with Mr.Sanjiv Punalekar i/b Jyoti Ghorpade, Advocates for Respondent No.8.

Mr.Madhur Rai with Sachin Kanse i/b PRS Legal, Advocates for Respondent Nos.5 to 7.

Mr.Bhushan Deshmukh with Akshay Sawant, Yash Pitroda & Ashmita Poojary i/b I. V. Merchant & Co, Advocates for Respondent

Nos.9 to 14.

**CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.**
DATE: AUGUST 27, 2024

P. C.

1. In the above Writ Petition, by order dated 27th July 2023, on the suggestion made by this Court, and without prejudice to the rights and contentions of the parties, a Senior Advocate of this Court was appointed as a Mediator to explore the possibility of settlement between the Petitioner and Respondent Nos.5 to 8. Pending mediation, the said Respondents, including Respondent No.8, were directed to maintain status-quo with regard to/relating to the leased land which forms the subject matter of the above Petition.

2. We are now informed by the learned counsel for the parties that the mediation has failed. We are also informed that there are certain occupants who are presently residing in transit accommodation on the leased lands and have to be given possession of their permanent alternate accommodation tenements. The concerned Respondents are unable to do so by virtue of the status-quo order. This is the reason why the matter has been

moved before this Court today seeking a clarification of the status-quo order that was passed by this Court on 27th July, 2023.

3. Mr.Andhyarujina, the learned Senior Counsel appearing on behalf of the Petitioners, on taking instructions, fairly submitted that the cess and non-cess occupants, can be given possession of their permanent alternate accommodation tenements. This, of course, is without prejudice to the rights and contentions of the Petitioners, was the statement.

4. In the facts and circumstances narrated above, and the stand taken by the Petitioners, it is clarified that the order dated 27th July, 2023 directing the Respondents to maintain status-quo with regard to/relating to the leased land shall not be construed as preventing Respondent No.8 from handing over the possession of permanent alternate accommodation tenements in Rehabilitation Building Nos.4A and 4B to those cess and non-cess occupants who are presently residing in transit accommodation on the leased land.

5. It is needless to mention that this clarification is without prejudice to the rights and contentions of all parties and shall not entitle the

Petitioners and/or Respondent Nos.5 to 8 to claim any equities on the basis of this order.

6. Since it is the case of some of the cess and non-cess occupants that the transit accommodation occupied by them is in a dilapidated condition, we would request Respondent No.8 to complete all formalities as expeditiously as possible to ensure that these cess and non-cess occupants are put in possession of their permanent alternate accommodation as quickly as possible. MHADA is also requested to assist Respondent No.8 to ensure that these cess and non-cess occupants can be rehabilitated as quickly as possible in Rehabilitation Building Nos.4A and 4B referred to us by earlier.

7. In light of this order, Mr.Kurle, the learned counsel appearing on behalf of the Applicants in Interim Application (L)No.29291 of 2021 submits that nothing survives in the aforesaid Interim Application and the same can be disposed of as infructuous. In view of the aforesaid, nothing survives in Interim Application (L)No.29291 of 2021 and the same is disposed of as infructuous.

8. Place the above Writ Petition along with Writ Petition (L) No.17131 of 2024 for admission on 19th September, 2024.

9. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[FIRDOSH P. POONIWALLA, J.]

[B. P. COLABAWALLA, J.]