

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 723 OF 2016

Sukhakarta SRA CHS Ltd. ... Petitioners
Vs.
The State of Maharashtra & Ors. ... Respondents

Mr. Shashikant Surana a/w Mr. M.S. Surana, for the Petitioners.
Mr. U.S. Upadhyay, AGP, for the Respondent Nos. 1 to 4 – State.
Mr. A.U. Patil a/w Mr. Adesh Sarbhukan for the Respondent Nos. 5, 6 & 7.
Mr. P.M. Shah for the Respondent No.9.
Ms. Namrata S. Bobade i/b. Mr. M.J. Bhatt for Respondent No.8.
Deputy collector Mr. Upendra Tamare, present.

**CORAM: R.M.SAVANT &
SMT.SADHANA S.JADHAV, JJ.**
DATE : 27th June, 2017.

P.C.

Pursuant to our directions as contained in the order dated 20.6.2017, the Court Commissioner visited the site and has submitted his report. The said report discloses that out of 70 structures, which were required to be demolished in terms of the order passed by the Division Bench of this Court dated 19.1.2017 as also the orders passed by the Apex Court, 42 structures are in existence and are in occupation and 7 structures are lying vacant undemolished. The said structures are identified by the numbers given in para 4 of the Additional Affidavit dated 27.6.2017 of the Petitioners. The said structures are as follows :-

“STRUCTURE NOS. WHICH ARE NOT DEMOLISHED AND OCCUPIED BY THE SLUM DWELLERS

1, 4, 13, 14, 17, 18, 24, 25, 32, 55, 62, 68, 70, 71, 105, 111, 114, 117, 143, 151, 152, 153, 156, 161, 164, 165, 167, 168, 171, 172, 173, 174, 176, 182, 183, 219, 228, 242, 263, 264, 268 & 269.

STRUCTURE NOS. WHICH ARE NOT DEMOLISHED BUT WHICH ARE LYING VACANT.

36, 58, 59, 60, 150, 180, 241”

The aforesaid fact therefore falsifies the case of the Deputy Collector as mentioned in his affidavit dated 19.6.2017. Hence, the case of demolition being carried out in February 2017 and March 2017 was just a pretence and an eye-wash so as to show the compliance of the orders passed by this Court as well as the Apex Court. The conduct of the officer concerned to say the least does not inspire confidence. Pursuant to our directions, the officer i.e. the Deputy Collector (Encroachment/Removal) Shri Upendra Tamare is personally present in Court. On instructions of the said officer, the learned AGP Shri Upadhyaya states that the demolition would be carried out so as to comply with the directions of the Division Bench of this Court as well as the orders passed by the Apex Court. We, therefore, direct the Competent Authority i.e. the Deputy Collector (Encroachment/Removal) – Respondent No.4 herein to initiate steps to carry out the demolition of 42+7

structures identified as above within two weeks from date and complete the demolition within five weeks from date. The aforesaid time we have granted in view of the monsoon. We have already observed in the order dated 20.6.2017 that in view of the payment made by the Respondent No.9 to the occupants of the said 49 structures, there cannot be now any impediment for demolition of the structures so as to facilitate the implementation of the Slum Rehabilitation Scheme. Any reluctance to obey the directions as contained in the instant order would be viewed very seriously. The demolition would be carried out with information to the Court Commissioner, who would remain present on site.

2. The Senior Inspector of Bhandup Police Station is directed to provide the necessary police assistance on the day the demolition is carried out both to the Deputy Collector (Encroachment/Removal) as well as the Court Commissioner. The Deputy Collector (Encroachment/Removal) to note that no outside interference should be allowed by him as the same would also amount to disobedience of the directions of this Court.

To be put up for compliance on 3.8.2017 at 3 p.m.

3. The Respondent No.9 is directed to deposit an amount of Rs.5,000/- in this Court towards the costs of the Commissioner.

4. The Court Commissioner to submit his further report as regards the demolition.

(SMT. SADHANA S.JADHAV, J.)

(R.M.SAVANT,J.)