

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

WRIT PETITION (LDG.) NO. 1668 OF 2018

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Ms.Gayatri Singh, Senior Advocate with Mr.Zaman Ali
for the petitioners.

Ms.Vandana Mahadik for the respondent- MMC.

Mr.Milind More, Addl.GP for the respondent- State.

Mr.G.W.Mattos for respondent Nos.9 and 10.

CORAM : A.S.OKA AND RIYAZ I. CHAGLA, JJ.

DATE : 20th June 2018.

P.C. :

Not on board. Taken up on board.

2. It is not in dispute that the structures of the first to third petitioners have already been demolished. The learned counsel appearing for the respondent Nos.9 and 10, on instruction, states that 302 structures were identified for demolition and the residential premises of the the petitioner No.4 is not one of those 302 structures/premises. Hence, the respondent Nos.9 and 10 do not intend to demolish the residential structure in possession of the petitioner No.4. We accept the said statement. He, however, states on instruction, that as far as

the petitioner No.5 is concerned, his structure used for commercial use has been demolished and he has been allotted an alternate accommodation. He states that in respect of commercial structure of petitioner No.5, an attempt was made to tender a letter of allotment of alternate accommodation to the said petitioner but he refused to accept the same. We direct the respondent Nos.9 and 10 to supply a copy of the said allotment letter to the advocate for the petitioners. After the copy is supplied, it will be open for the petitioner No.5 to take possession of the said premises without prejudice to his rights and contentions in this petition.

3. The learned counsel appearing for the respondent Nos.9 and 10 states that any residential structure of the petitioner No.5 is not identified as one of 302 structures which are required to be demolished. We accept the said statement.

4. Our attention is invited to a public notice at Exh.Y at page 226 published by the respondent No.10 on 5th May 2017. Prima facie, we are of the view that the respondent No.10 has no statutory power to demolish any structure which is required to be demolished for the

project of Metro Rail. Even if the respondent No.9 wants to exercise such power, the said respondent will have to exercise such power strictly by following due process of law.

5. Place the petition under the caption of fresh admission on 16th July 2018.

6. At this stage, the learned counsel appearing for the respondent Nos.9 and 10 has handed over the copy of the allotment letter issued to petitioner No.5 to the advocate for the petitioners.

7. Reply, if any, to be filed on or before 10th July 2018.

8. Needless to add that none of the respondents shall fell or destruct any tree without obtaining prior permission of the Tree Authority.

(RIYAZ I. CHAGLA, J.)

(A.S.OKA, J.)