

The Hindustan Times, New Delhi, 04 Mar 2008

Court rejects rehab claim of squatters on rly land

Shibu Thomas | TNN

Mumbai: Last week chief minister Vilasrao Deshmukh had asked the railways to come up with a policy to rehabilitate slum dwellers. The



Bombay high court, however, in a recent judgment, held that the railways is not bound to resettle encroachers living on its property if the Central government did not have a policy

Justice J H Bhatia dismissed a petition filed by 71 slum dwellers who sought rehabilitation under the banner of Indira Social Welfare Sangh. "Unless there is a government scheme, no person, encroaching on public properties, has a legal right to be rehabilitated," he said.

The judgment comes as a reprieve for the railways as a substantial part of its properties are illegally encroached on.

LEGALLY SPEAKING

Unless there is a government scheme, no person, encroaching on public properties, has a legal right to be rehabilitated

Justice J H Bhatia

Over 2,162 hectare of railway land in the country is occupied by encroachers, while in Mumbai, almost 37 hectare is taken over by squatters. Providing the lot with an alternative accommodation would cost crores, said a source.

The case was filed by the Sangh, which claimed that its members had been living on railway land from before 1976. In 2000, the estate officer of the railways had ordered their removal and issued eviction notices in October 2007.

Challenging the notices, ad-

vocate M P Vashi, the counsel for the petitioners, contended that a shelter was "one of the basic needs" and therefore, a fundamental right of citizens under Article 21 of the Constitution. The lawyer argued that the railway's decision to evict the slum dwellers without providing alternative accommodation was discriminatory

However, advocate Suresh Kumar told the high court that the railways cannot be compelled to provide rehabilitation to encroachers. "(The railways) has no policy for rehabilitation of unauthorised occupants removed from railway land or premises," said Kumar, adding that the state government's policy to resettle slum dwellers was not binding on the railways.

The court agreed with the railways' advocate and held that since the orders were passed under the Public Premises Act, a civil court's jurisdiction in such cases was limited.