

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 775 OF 2023

Smt. Ashalata Prabodh Kolhatkar

.Petitioner

Versus

The State of Maharashtra & Ors.

.Respondents

Mr. Ajit N. Jakhadi a/w. Mr. Amol Anant Chile, Advocate, for the
Petitioner

Mr. A. B. Chate, Addl. GP a/w. Ms. S. S. Bhende, AGP, for the
Respondent – State

Mr. Jagdish G. Aradwad (Reddy) a/w. Ms. Ashwini Jadhav,
Advocate, for Respondent No. 4

Mr. Abhishek Karnik i/b. Ms. Leena Patil, Advocate, for
Respondent No. 5

Mr. Sandeep Mishra, Advocate, for Respondent No. 6

CORAM : MADHAV J. JAMDAR, J.
DATE : 22.12.2023

ORAL JUDGMENT

1. Heard Mr. Jakhadi, learned Counsel appearing for the
Petitioner, Mr. Chate, learned Additional GP along with
Ms. Bhende, learned AGP appearing for the Respondent – State,
Mr. Aradwad (Reddy), learned Counsel appearing for
Respondent No. 4, Mr. Karnik, learned Counsel appearing for
Respondent No. 5 and Mr. Mishra, learned Counsel appearing for
Respondent No. 6.

2. The Petitioner is challenging the legality and validity
of the Order dated 15.10.2019 passed by the Grievance Redressal

Committee, Thane city in Appeal No. SR-2 of 2019. By the said Order dated 15.10.2019 the Appeal bearing Appeal/SRA/SR-46 of 2018 filed by the Petitioner against the Order dated 22.11.2018 passed by the Additional Collector and Appellate Authority, Thane is rejected. By the said Order dated 22.11.2018, Annexure - II dated 03.06.2017 is confirmed. By the said Annexure - II, the case of the Petitioner's father-in-law - Mr. Dinkar Shankar Kolhatkar is considered and he has been held eligible for the non-residential premises. In the said Annexure-II, it has been specifically held that certain slum structures are divided into two and therefore, such divided structures are ineligible for additional rehab premises as the same is only single slum structure. The Petitioner's structure given as Sr. No. 146 has accordingly is not held eligible. The Additional Collector in the Order dated 22.11.2018 recorded that Respondent No. 5 - Society has made complaint regarding the division of slum structures by certain slum dwellers and accordingly after verification, it is found that about 30 slum structures are divided into two parts including the structure of the Petitioner's father-in-law.

3. Accordingly, the Appeal has been dismissed by the Additional Collector. The said Order is challenged before the Grievance Redressal Committee, Thane city. The Grievance

Redressal Committee, Thane city while rejecting the claim of the
 Petitioner has observed in paragraph 10 as follows:

“10. The suit premise is adjacent to the hut belonging to Shri Dinkar Shankar Kolhatkar who is father-in-law of the Appellant. The said Kolhatkar made gift deed in favour of Appellant and transferred Suit premises in the name of Appellant. Therefore, there is every possibility of Appellant residing with her father-in-law Shri Dinkar Shankar Kolhatkar and thereby the Appellants name came to be recorded in voting roll for the year 1995 and also Election Card No. MT/10/053/029140 dated 20/11/1994 came to be issued at the address of Shri Dinkar Shankar Kolhatkar i. e. room No. 145 which is declared eligible in Annexure-2 issued by Respondent No. 2 Deputy Collector and Competent Authority Thane-1. The documents of possession submitted by Appellant in respect of suit premises are of recent period i. e. after 1/1/2000. The Appellant has submitted Electricity Bill of MSDC dated 13/12/2015 and photo pass No. 28530 dated 03/01/2018 issued by Thane Municipal Corporation. This fact does not prove the existence of suit premises since 1992 as claimed by the Appellant. It appears that to claim the benefit Slum Rehabilitation scheme the Appellant along with other Hut Holders have newly constructed their respective huts by putting partition in the original huts. The occupant of Hut No. 145 Shri Dinkar Shankar Kolhatkar is declared eligible in Annexure-2. These facts are noticed by Deputy Collector and Competent Authority at the time of Survey. This makes clear that the Appellant has constructed new room by putting partition in Hut No. 145 to claim the benefit of the Slum Rehabilitation Scheme therefore the Deputy Collector and Competent Authority has not included the suit premises in eligible list/Annexure-2. The Additional Collector and Appellate Authority has rightly observed that Appellant has newly constructed suit premises by putting partition/division in the original hut at serial no. 145. The Appellant Authority has passed proper order and interference by this committee is not necessary. For

the reason as above, the appeal is liable to be rejected. The suit premises is already demolished on 23/01/2019 by the Competent Authority in pursuance of order dated 14/12/2018 passed under section 33-38 of the Maharashtra Slum Areas (Improvement, Clearance and redevelopment) Act, 1971, application for stay filed by the appellant is in fructuous. Therefore the stay application is liable to be rejected with appeal. Hence following order is passed.

ORDER

1. *Appeal along with stay application is Dismissed.*
2. *No Order as to cost."*

(Emphasis added)

4. Mr. Jakhadi, learned Counsel appearing for the Petitioner has relied on several documents. He has produced the documents pertaining to the Petitioner as well as the documents of her father-in-law. The said charts giving particulars of the documents are as follows:

DOCUMENTS OF THE PETITIONER

<i>SR. NO.</i>	<i>DATE</i>	<i>PARTICULARS</i>	<i>Page Nos.</i>
<i>1.</i>	<i>20.11.1994</i>	<i>Copy of Voter ID Card</i>	<i>1</i>
<i>2.</i>	<i>26.12.1997</i>	<i>Copy of Gas Connection receipt</i>	<i>2-5</i>
<i>3.</i>	<i>31.12.2016</i>	<i>Copy of Electricity Bill</i>	<i>6-9</i>
<i>4.</i>	<i>01.01.1995</i>	<i>Copy of Voter list</i>	<i>10-11</i>
<i>5.</i>	<i>09.01.2018</i>	<i>Based on above Voter List Photo-pass has been issued to the Petitioner</i>	<i>12</i>
<i>6.</i>	<i>10.05.1994</i>	<i>Copy of old Ration Card</i>	<i>13-14</i>

7.	1998	<i>Based on above Ration Card New Ration Card is issued</i>	15-17
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INDEPENDENT DOCUMENTS OF FATHER-IN-LAW OF THE PETITIONER

<i>SR. NO.</i>	<i>DATE</i>	<i>PARTICULARS</i>	<i>Page Nos.</i>
<i>1.</i>	<i>20.11.1994</i>	<i>Copy of Voter ID Card</i>	<i>18</i>
<i>2.</i>	<i>25.09.1981</i>	<i>Copy of Gas Connection</i>	<i>19-22</i>
<i>3.</i>	<i>31.12.1988</i>	<i>Copy of Electricity Bill</i>	<i>23-24</i>
<i>4.</i>	<i>01.01.1995</i>	<i>Copy of Voter list</i>	<i>25-26</i>
<i>5.</i>	<i>22.06.2016</i>	<i>Based on above Voter List Photo-pass has been issued to father-in-law of the Petitioner</i>	<i>27</i>
<i>6.</i>	<i>10.05.1999</i>	<i>Copy of Ration Card (It is replaced with old Ration Card)</i>	<i>28-30</i>

(Emphasis added)

5. At the outset, it is significant to note that the G. R. dated 17.01.2008 specifies the documents which can be considered for deciding the eligibility. Clause (6) of the said G. R. specifically provides that the ration card be not considered as evidence for deciding the eligibility. The said G.R. specifies that *inter alia* the entries in the Voters list, telephone bill, electricity bill can be taken into consideration.

6. As far as the documents of father-in-law are concerned, it is an admitted position that slum structure in his name i.e. slum structure No.145 has been held eligible. It is the

complaint of the Society that father-in-law of the Petitioner i.e. Mr. Dinkar Shankar Kolhatkar has divided the said slum structure in two parts and created certain documents to show that the Petitioner is having an independent slum structure to get undue advantage of two rehab premises in the said slum scheme.

7. It is an admitted position that the Petitioner married on 17.02.1992 Mr. Pramod Kolhatkar i. e. son of Mr. Dinkar Shankar Kolhatkar, original slum dweller. The voter identity card dated 20.11.1994 is issued in favour of the Petitioner showing the address as 'Bhola Bhaiya Chawl Almeda Road, Nuribaba, Thane'. Therefore, the said voter identity card is of no assistance to the Petitioner, as no specific address is mentioned in the voter identity card. As far as the gas connection receipt is concerned, same is dated 26.12.1997 and name of the consumer is mentioned as that of the Petitioner. However, the address shown is "Bhola Bhaiya Chawl, Almeda Road, Chandanwadi, Thane - 400 601". Thus, the said Gas connection Receipt is also of no assistance, as no specific address is mentioned on it.

8. The main crucial document produced by the Petitioner is the Application dated 27.12.2016 filed by the Petitioner for the purpose of obtaining an electricity connection

which shows address as "Room No. 146, Bhola Bhaiya Chawl, Almeda Road, Chandanwadi, Pachpakhadi, Thane (W) - 400 602". The said Application is dated 27.12.2016. Thus, the same will not show the existence of the slum structure of the Petitioner since 1992, as claimed by the Petitioner or even before the cut off date.

9. The reliance is also placed on the photocopy of voters list. The said voters list is of the year 1995. In the said voters list at Sr. No. 569 name of the Petitioner's father-in-law i. e. "Kolhatkar Dinkar Shankar" is shown and from Sr. Nos. 570 to 576, names of his family members are shown. The said entries are as follows:-

५६९	कोल्हटकर दिनकर शंकर	पु. ५०
५७०	कोल्हटकर सुनिता दिनकर	स्त्री ४५
५७१	कोल्हटकर गिरीष दिनकर	पु. ३५
५७२	कोल्हटकर प्रबोध दिनकर	पु. २५
५७३	कोल्हटकर विना गिरीष	स्त्री २५
५७४	कोल्हटकर आशालता प्रबोध	स्त्री २३
५७५	कोल्हटकर अतुन दिनकर	पु. २१
५७६	कोल्हटकर सुप्रभा दिनकर	स्त्री १९

However, the above entries do not show existence of two separate slum structures. It is an admitted position that on the basis of said voters list, a photo pass has been issued in favour of the Petitioner's father-in-law i. e. Mr. Dinkar Shankar Kolhatkar. The

Petitioner has also relied on photo pass. However, the said photo pass has been issued on 09.01.2018. Thus the said photo pass is not relevant for deciding the existence of separate slum structure apart from the slum structure of the Petitioner's father-in-law which has been held eligible.

10. The Petitioner has also relied on a ration card which is on page Nos. 130 to 134. However as per the above G.R. ration card is not to be taken into consideration for deciding the eligibility. In any case, the address as mentioned in the ration card is "Bhola Bhaiya Estate, Chandanwadi, Opposite Shiv Sena Shakha". Thus the same does not prove the existence of the separate slum structure.

11. The main crucial document for deciding the eligibility in this case is the electricity bill. However, same clearly shows that the Application for electricity connection was submitted on 27.12.2016. Thus, the same will not show the existence of the slum structure of the Petitioner since 1992, as claimed by the Petitioner or even before the cut off date.

12. After taking into consideration the above documents, both the authorities have held that same do not show the existence of the two separate slum structures. Both the Authorities have taken a possible view of the matter. In fact the view taken by the

Authorities is the only view which can be taken on the basis of the material on record.

13. Thus, this is not a case where any interference under Article 227 of the Constitution of India is warranted. The Writ Petition is dismissed, however with no order as to costs.

14. In view of disposal of the Writ Petition, interim relief granted earlier stands vacated forthwith.

(MADHAV J. JAMDAR, J.)