

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.1794 OF 2026

Dayanand Dhondiba Waghmare

.. Petitioner

Vs.

The Additional Collector (Enc/Rem),
and Appellate Authority, Eastern Suburbs & Ors.

.. Respondents

Mr. S.S. Redekar, Advocate for the Petitioner.

Mr. Dipesh Siroya, AGP for the Respondent-State of Maharashtra.

Ms. Pushpa Yadav with Ms. Pratik Garade, Advocates for the Respondent-BMC.

CORAM : GAUTAM A. ANKHAD, J.

DATE : 2ND JULY 2026

P.C. :

1. The Petitioner claiming to be the owner and occupier of structure no.110 situated at Nagababa Rahivashi Sangh, Near Khoka Company, Parksite, Vikroli (West), Mumbai – 400 079, has filed this Petition seeking the following reliefs:-

“a) That this Hon’ble Court be pleased to call for records & proceedings of the Annexure II annexed at Exhibit F to the Petition, impugned orders annexed at Exhibit G & H to the Petition and after going through the legality, validity & propriety of the same and after hearing the Petitioner be pleased to quash and set aside the impugned

order dated 29th October 2024 passed by the GRC along with impugned order dated 30th January 2024 passed by the Respondent no.1 and further be pleased to hold the Petitioner as eligible for residential purpose at sr.no.114 in the Annexure II;

b) And/or in alternate the matter be remanded back to the Respondent no.2 to decide fresh about the Petitioner's eligibility."

2. Mr. Redekar, learned Advocate appearing for the Petitioner, submits that the structure originally belonged to Respondent No.3 who transferred it to Respondent No.4 and thereafter, by an affidavit dated 24th September 2004, Respondent No.4 transferred the structure to the Petitioner. It is contended that the structure has been in existence prior to the datum line date of 1st January 2000 and that the Petitioner has been in continuous occupation thereof since the year 2004. However, the Petitioner is wrongly declared ineligible for rehabilitation by the Competent Authority on 9th June 2022. The appeal preferred before Respondent No.1 came to be rejected by an order dated 30th January 2024. A further appeal before Respondent No.5-Grievance Redressal Committee being Appeal No.68 of 2024 also came to be dismissed by order dated 29th October 2024. Learned counsel submits that the name of Respondent No.3 appears in the electoral roll of 1994 for the Kurla constituency, thereby establishing the existence of the structure prior to the datum line. The authorities have failed to appreciate the documentary material produced by the

Petitioner while determining his eligibility. It is, therefore, submitted that the impugned orders deserve to be quashed or, in the alternative, the matter be remanded for fresh consideration.

3. On the other hand, Mr. Dipesh Siroya, learned AGP appearing for Respondent No.1 and Ms. Yadav, learned advocate appearing for Respondent No.2, support the impugned orders. They submit that both Respondent Nos.1 and 5 have undertaken a factual examination of the material placed on record and have rightly found that the Petitioner's claim suffers from serious inconsistencies. It is pointed out that the electricity verification report dated 12th May 2006 records the electricity connection in the name of one Satyadev Ramjor Kanojiya and not in the name of either the Petitioner's predecessor-in-title or the Petitioner. Thus, no case is made out for interference with the impugned orders and the Petition ought to be dismissed.

4. I have considered the rival submissions and perused the material on record. Since the controversy substantially turns upon the findings recorded by Respondent No.5- Grievance Redressal Committee, paragraphs 9 and 10 of its order dated 29th October 2024 are reproduced below:

“9. The Committee has gone through the provision of the law against the above findings, the relevant provisions which this Committee deems it fit to reproduce the provisions of

Government Resolution dated 16/05/2015 on page no.6 under head Jodpatra – Ek (Annexure-One) Point no.1 At least one of the proofs in the accompanying statement (VIVRANPATRA) is required as proof of existence of the hut on or before 1.1.2000 for the hut to be eligible for protection. And Point no.2. At least one proof from the latest one year in the accompanying statement (VIVRANPATRA) showing the name and address of the hut or the fixed location of the hut is required as proof of the existing existence of the hut on or before 1.1.2000 and the fact that the hut dweller is actually living there on or before 1.1.2000.

10. *This Committee, after considering the appeal memo, various documents submitted and argument made by the appellant and the learned Advocate for the appellant, respondents, findings with reasoning of the Competent Authority and learned Appellate Authority observed that; (a) though the appellant did submit Transfer Affidavit showing transaction dated 23.09.2004 and the appellant has argued his entire case relying upon this Transfer Affidavit, but the appellant failed to produce any supporting proof as mentioned in accompanying statement (VIVRANPATRA) with Government Resolution dated 16.05.2015; to prove that an independent hut/structure was in existence before 01.01.2000; (b) the appellant failed to produce at least one proof from the recent one-year showing that the appellant was in continuous possession of the structure/hutment from 01.01.2000 till the preparation of Annexure-II as per the accompanying statement to Government Resolution dated 16/05/2015; (c) as per the Transfer Affidavit of said disputed huts, the original hut owner was Shri. Dilip Govind Mhaske sold this hut to Shri. Achyut Rambhau Bhoite on dated 06.03.2003 and thereafter the said disputed hut purchased by the appellant on dated 23.09.2004. But, as per the electricity verification report, first electricity connection obtained dated 12.05.2006 in the name of Satyadev Ramjor Kanojiya and thereafter the said connection transferred in the month of December, 2006 in the name of appellant. Thus, the chain of documents was not matched as per the electricity verification report. Considering the above findings of the Committee, it can be*

concluded that the findings of the Appellate Authority are with correct reasoning; therefore, this Committee endorses the same. This Committee avoids mentioning the findings of the learned Appellate Authority here again to avoid repetition and prolixity. After carefully examining the provisions of law as mentioned above, this Committee believes that the learned Appellate Authority has passed a reasoned order and there is no need to interfere in the impugned order by the hands of this Committee since the appellant failed to establish the case as pleaded in the appeal. Hence, the following order is passed:

ORDER

- 1. The appeal is hereby rejected.*
- 2. No order as to costs.*
- 3. Order shall be communicated to all concerned.”*

5. A perusal of the impugned order indicates that the Petitioner's claim has been examined in the light of the Government Resolution dated 16th May 2015 governing determination of eligibility for rehabilitation. The authorities have concurrently held that the Petitioner failed to produce the requisite documentary evidence contemplated under the Government Resolution. The transfer affidavit relied upon by the Petitioner is unsupported by the contemporaneous documents prescribed under the applicable policy. More importantly, the authorities have held that the electricity verification report records the first electricity connection of the disputed structure in the name of Satyadev Ramjor Kanojiya on 12th May 2006, which is inconsistent with the Petitioner's claimed chain of title and possession. This discrepancy goes to the

root of the Petitioner's claim and remains unexplained. The scope of interference under Article 226 of the Constitution in such matters is limited. Unless the findings are shown to be arbitrary, perverse or based on no evidence, this Court would not re-appreciate the factual material as if exercising appellate jurisdiction. In the present case, the authorities have assigned cogent reasons for rejecting the Petitioner's eligibility claim. No jurisdictional error, procedural irregularity or perversity is demonstrated. Hence, the Writ Petition No.1794 of 2026 is dismissed. There shall be no order as to costs.

[GAUTAM A. ANKHAD, J.]