

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.478 OF 2015
IN
APPEAL FROM ORDER NO.369 OF 2015

Dastagir Khan S/o. Jahangir Khan	...	Applicant
Vs.		
The State of Maharashtra & Ors.	...	Respondents

Kishor Patil, Adv. a/w. Pratik B Rahade, Adv. for applicant.
Sandeep K Shinde, Adv. for Respondent Nos.6 to 8.
D A Nalavade, Adv. for respondent No.4.

CORAM : MRS. ROSHAN DALVI, J.
DATE : 10th September, 2015.

P.C. :

1. Rule. Made returnable forthwith.
2. The jurisdiction of the civil court which is held to be barred is challenged in this appeal. The bar has been seen upon a declaration of the suit property as slum under the notification dated 31st May, 1978 under which part of CTS No.76 has been declared a slum. Thereafter CTS No.76 1 to 166 has been deleted as slum under the letters / order of the Dy. Collector (ENC), Kurla II, Mulund dated 23rd June, 1981. The suit structures fall under CTS No.76/31, 32 and 33. Hence they are deleted from the slum. The civil courts jurisdiction was, therefore, not be barred.
3. It is an established position in law that the jurisdiction of the civil court cannot be easily dislodged.

4. The Court has been shown the guidelines for Implementation of Slum Rehabilitation Scheme (SRS) in Greater Mumbai. Under clause 7.7 thereof when there are contiguous lands which are slum lands, they can be allowed to be redeveloped as a whole. The redevelopment of defendant Nos.6 & 7 in the suit shall, therefore, be under the SRA scheme for the land which would be amenable to the jurisdiction of the civil court.

5. The Civil Court shall, therefore, have to consider the merits of the appellant's claim. The impugned order dated 20th February, 2015 of the Bombay City Civil Court holding that the Court has no jurisdiction is accordingly set aside. The Court shall hear the Notice of Motion on merits.

6. Counsel on behalf of defendant Nos.6 & 7 stated that 150 persons from the slum have already been given alternate accommodation out of the 200 who are found eligible and the redevelopment is well on its way.

7. Hence learned Judge is requested to consider the case of the appellant expeditiously. Until then the status quo order shall continue.

8. Both Civil Application as also Appeal from Order are disposed of accordingly.

(ROSHAN DALVI, J.)

C E R T I F I C A T E

Certified to be true and correct copy of the original signed order.