

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**FIRST APPEAL NO. 951 OF 2015
WITH
CIVIL APPLICATION NO. 2674 OF 2015 IN F.A. NO. 951 OF 2015**

Smt. Manjula Nanji Dabhi ... Appellant/Applicant
vs.
The Mumbai Municipal Corporation & Ors. ... Respondents

Mr. Rajendra K. Yadav, Advocate for the appellant/applicant.
Mrs. M.R. Bhoir, Advocate for the respondent.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE : **AUGUST 28, 2015**

P.C.:

Admit. By consent, the Appeal is heard finally and disposed of at the stage of admission.

2. This Appeal is directed against the judgment and order dated 23rd March, 2015 passed by the learned Judge, City Civil Court, Mumbai thereby dismissing Suit No.1110 of 2009. The suit was filed for the declaration that the notices issued under Slum Rehabilitation Act on 13th May, 2009 are bad in law, mala fide and injunction is to be issued restraining the defendants from demolition of the suit structure without following due process of law. It was claimed that the suit structure is existing prior to 01.01.1995 and the notice is outside the scope of provisions of Slum Rehabilitation Act and policy framed thereunder.

3. The learned counsel for the appellant submitted that the learned trial Judge did not consider the documents especially the election identity card

issued on 14th January, 1995 which discloses that the suit structure existed prior to 1995.

4. The learned counsel for the Corporation opposed the Application at the stage of admission and submitted that BMC has considered all the documents produced by the appellant including the election card. The address given on the election card is 40D, Dosa Compound. It is a chawl and in the ration card, the address given is a hut next to room no.14/B in 40D, Dosa Compound. She submitted that the Appeal is to be dismissed.

5. Perused all the documents, election card, ration card, order passed by the learned trial Judge and the impugned notices. The ration card is issued on 25th January, 2007 and the address is shown as hut next to room no. 14B in 40D, Dosa Compound. However, in the election card, such address is not mentioned. The address given is only 40D, Dosa Compound. Though the election card is issued on 14th January, 1995, the address given in the ration card and that of election card does not match. The learned trial Judge has taken a correct view after verifying the documents that they do not support the case of the appellant in respect of the structure prior to 1995. Under such circumstances, the First Appeal is dismissed.

6. In view of dismissal of First Appeal, Civil Application does not survive and hence, the same is accordingly disposed of.

(MRS.MRIDULA BHATKAR, J.)