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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10282 OF 2014

Surendra Shyam Shetty

..Petitioner

V/s.

Deputy Collector

(Encroachment/Eviction) &

Contempt Authority, Kurla & Ors.

..Respondents

Mr. Nikhil Suryakant Rajeshirke for the Petitioner.

Mr. A. I. Patel, AGP, for the Respondent-State.

CORAM : A. K. MENON, J.

DATE : 15TH SEPTEMBER, 2015.

P.C.:

The present petition is filed by the petitioner and individual challenging the order dated 11th October, 2010 passed by the first respondent – Deputy Collector(Encroachment/Eviction) and Competent Authority, Kurla, whereby the said respondent no.1 upheld the order dated 17th April, 2013 passed by the Divisional Commissioner, Kokan Division, under Appeal no.913 of 2012 (passed by Deputy Collector and Competent Authority). The petitioner claims that in the year 2000-01, the MMRDA undertook the work of the Andheri-Ghatkopar Link Road and due to said work certain hutments/structures were affected. The project claims to be a project affected person since he was in a possession of

room no.1, A1, Ram Nagina Tiwari Bhavan, Asalfa Village, Ghatkopar (West) Mumbai, prior to the year 1995. According to the petitioner he was in occupation and possession of the said room before 1st January, 2000.

2. The petitioner had produced certain documents in support of his claim and the Deputy Collector (respondent no.1) vide order dated 11th September, 2008 had declared the petitioner ineligible for the allotment of the alternate premises in lieu of the said room. Being aggrieved, the order was carried in Appeal before Respondent no.2 who has given a personal hearing to the petitioner. On perusal of the documents, the Respondent no.2 came to the conclusion that prima facie the documents produced were dated prior to 1st January, 2000 hence the matter was remanded by respondent no.2 to respondent no.1. The petitioner claims to have thereafter produced various documents, however, after scrutiny of the documents, the issue was once again decided against him. This order dated 11th October, 2010 was once again challenged before respondent no.2 who rejected the Appeal vide order dated 17th April, 2013. Hence the present petition.

3. After scrutiny of para 11 of the petition which discloses the various documents produced before the Respondent no.1 it seems there was

nothing to show that the petitioner was eligible. Learned counsel for the petitioner contended that certain document in respect of the electricity supply supported the petitioner's contentions. However, I find that even the electricity connection is in the name of Mr. Vijay Salvi and not that of the petitioner. Learned counsel for the petitioner, then, relied upon a declaration said to be executed by the wife of Mr. Vijay Salvi to support his contention that he was a resident of the premises at the cut off date. He also relied upon the identity card issued by the Election Commission of India under certificate of birth of his daughter which discloses the address of Kurla being G-1, Agrawal Bhuvan, Kurla, Mumbai.

4. The learned counsel for the petitioner submitted that these documents were submitted since he was also residing along with his in-laws at the aforesaid address at Kurla. It is pertinent to mention that if indeed the premises at Kurla was not belonging to the applicant what he could and ought to have done was to provide evidence as to the effect that the premises at Kurla were not owned by him but by his in-laws. No such attempt has been made. In the circumstances, impugned orders do not reflect any perversity and calls for no interference and, hence, I pass the following order :-

- (i) The Writ Petition is dismissed.
- (ii) There will be no orders as to costs.

(A. K. MENON, J.)

CERTIFICATE

Certified to be true and correct copy of the original signed
Judgment/Order.