

Shri. Premji Sojpar Gada	}	Petitioner
Versus		
The State of Maharashtra and Ors.	}	Respondents

Mr. P. K. Dhakephalkar – Senior Advocate
with Mr. Ajit N. Jakhadi and Mr. R. P.
Ojha for Respondent No. 6.

DATED :- NOVEMBER 23, 2015

This Petition under Article 226 of the Constitution of India challenges the order passed by a Committee styled as High Power Committee (HPC) dated 4th July, 2015. That is passed on Application No. 238 of 2014. The Petitioner before us claims that he is owner and in possession of shop Nos. 4 and 5, Saikripa Niwas, Vaishetpada, Kurar Village, Malad (East), Mumbai 400

097. He states that there are two commercial premises along with mezzanine floor admeasuring about 2314 square feet. These are on the ground floor and on a piece and parcel of land bearing Survey No. 279, CTS No. 730, 730/1 and 2 of Malad village. The Petitioner states that the first and second Respondents are the State and the HPC, whereas, the third Respondent is the Chief Executive Officer of the Slum Rehabilitation Authority (SRA) constituted under the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (for short "the Slum Act"). Respondent Nos. 4 and 5 are in charge of removing encroachments, preparing documents such as those evidencing eligibility of the occupants of slums structures to permanent rehabilitation under the Slum Rehabilitation Scheme undertaken and implemented by the SRA. The Additional Collector is the competent authority under the Slum Act and for determining and deciding several questions and disputes arising during the course of implementation of the Slum Rehabilitation Scheme. Respondent No. 6 is a Builder and Developer engaged by the Co-operative Housing Society of the slum dwellers on the plot. The case of the Petitioner is that Respondent No. 6 is developing several pieces and parcels of land, one of which are CTS Nos. 730 and 730/1 and 2. The Petitioner states that originally the Petitioner's wife Smt. Hiraben alias Hirabai Premji Gada was the

tenant in respect of these shops. These shops were let to his wife by the then landlord shri. Mohammed Ayyub Mehboobali. It is stated that shop Nos. 4 and 5 are two distinct, separate and independent tenancies. These were considered as such and therefore, two separate rent receipts were issued. The Petitioner states that he was conducting business of grocery in these two shops and the landlord had allowed his wife to remove a common dividing wall. The Mumbai Municipal Corporation widened the East side of the road abutting the said shop Nos. 4 and 5. The Petitioner states that during this process, the shops were damaged. One Smt. Jaya Pangal challenged the action on the part of the Mumbai Municipal Corporation by filing a Writ Petition being Writ Petition No. 1177 of 1996 and succeeded in getting necessary reliefs. The Petitioner applied to the Mumbai Municipal Corporation for permission to repair these shops and on the strength of this order in the above Writ Petition, the Petitioner's wife could obtain the permission to carry out repairs. Therefore, the mezzanine floor was constructed. Then, it is stated that one Karam Hussain Gulam Rasul Khan and others executed an agreement for sale of these shops on 10th October, 1997 in favour of the Petitioner. The Petitioner's business has been referred to and how he executed further documents and entered into some deals with third parties is set out in para 11 of the

Petition. On 6th July, 2010, one Anil Kumar Govindan applied for information particularly whether the area in which the said premises are situate is declared as slum or not. The reply to the information sought is that this area in which the premises are situate is not declared as a slum. The Petitioner then, in paras 13 and 14 at page 10 states as under:-

“13. The Petitioner states that sometime in the year 2012 the Petitioner came to know that the Defendant is developing the said property including said premises i.e. situate on CTS No. 730, 730/1 & 2. The Petitioner was under the bonafide belief that the said premises situate on CTS No. 730, 730/1 & 2 is not declared as slum as per the information supplied to him. Hence Petitioner was under the impression that the developer is developing the said property as per regular development project. The Petitioner was under the belief that he would be entitled to permanent alternate accommodation of the area equivalent to the area which is used by him right now. The Petitioner states that through common acquaintance there were meeting by and between the Petitioner and the Respondent No. 6. The Respondent No. 6 assured the Petitioner that he would get permanent alternate accommodation of equivalent area presently under use by the Petitioner.

14. The Petitioner states that sometime in April, 2013 few officers approached said premises along with representative of Respondent No. 6 and other people of the same area. Their visit to the said premises was without knowledge, permission and consent of the Petitioner. The representatives of the Respondent No. 6 started taking measurements of the said premises. The Petitioner states that they were not properly taking measurements of the said premises. The Petitioner states that he wanted to object the measurements of said premises however before the mob of 10-12 persons he could not do anything. The said representatives also obtained signature of the Petitioner on some paper. The Petitioner was not given time to read the same.”

2) The Petitioner then approached Respondent No. 6 and conveyed his displeasure. However, Respondent No. 6 is stated to have assured the Petitioner that since the premises are not part of the declared slum, during the process of redevelopment, he would get permanent accommodation of the same area, which he is using for present. The Petitioner states that thereafter the list of persons who are entitled for permanent alternate accommodation was pasted on the property. The said list is styled as Annexure - II under the Slum Rehabilitation Scheme. The Petitioner's one shop was shown as ineligible and other shop was shown as pending decision on the eligibility. By then, the Petitioner came to know the norms for developing a property under the Slum Rehabilitation Scheme. The Petitioner was once again assured by Respondent No. 6 that he would accommodate him in the sale component and would give him a permanent alternate accommodation of area equivalent to the area presently under use. In para 17 it is stated that sometime in September, 2014 Respondent No. 6 started demolishing the other structures on the property. The Petitioner approached Respondent No. 6 and requested him to execute the agreement for permanent alternate accommodation for an area equivalent to the area presently under use by the Petitioner. Thereafter, the Petitioner received two notices from Respondent Nos. 6, copies of which are

annexed as Annexure 'G' collectively. The Petitioner then states that he approached the SRA, addressed a letter in writing. The Petitioner states that he is in occupation of the premises prior to 1997 and that is how he produced two electricity bills and relies on certificates under the Bombay Shops and Establishments Act, 1948. He also relies upon some bills issued by the telephone company. The Petitioner states that on 12th October, 2014, some unknown persons barged into the mezzanine floor of the said premises and threatened the Petitioner to vacate the premises. The Petitioner then refers to the complaint made on 14th October, 2014 to the SRA against Respondent No. 6. Then, the Petitioner moved the Civil court, namely, the Bombay City Civil Court by filing Suit No. 2487 of 2014. It is claimed that the Suit is pending, but on 17th October, 2014, a consent arrangement is arrived at in the Suit, copy of which is annexed as Annexure 'R' at page 80 of the paper book. That reads as under:-

"Exhibit R
In The Bombay City Civil Court At Bombay
Dindoshi Branch
S. C. Suit No. 2487/2014

Shri Premji Sojpar Gada		Plaintiff
v/s		
M/s. Royal Realtors		Defendant

Consent Terms

1. The Defendant agrees and undertakes not to dispossess, damage and/or interfere with suit premises ie two commercial premises being Shop No. 4 and Shop No. 5

along with mazzenine floor together adm. 2314 sq. ft. on land bearing CTS No. 730, 730/1&2 of Malad Village at Saikripa Niwas, Vaishetpada, Near Kurar Village, Malad (East), Mumbai 400097, without following due process of law under the Maharashtra Slums Act pending the suit.

Notice of Motion be disposed in view of above terms.

At Mumbai on this 17th Oct. 2014.

s/d"

3) The Petitioner then states that he applied for a copy of the gazette notification declaring the subject property as a slum and he states that this property was earlier declared as a slum, but later an order was passed by the Slum Tribunal under section 4 of the Slums Act, by which, these two City Survey Nos. 730 and 730/1 and 2 were deleted from the notification. That is how the Petitioner may be relying upon the documents with regard to the eligibility of slum dwellers and correspondence in that regard, but eventually, he has been called upon by the competent authority to vacate the premises. The Petitioner filed a Writ Petition earlier and that is how he was protected by an order, copy of which is at Annexure 'BB'. Then, he refers to an order passed on 7th February, 2015 by Respondent No. 4 and an Appeal before Respondent No. 5 challenging the same being Appeal No. 89 of 2015. Then, the Appeal of the Petitioner came to be rejected on 18th May, 2015, but prior thereto, an order was passed on 1st April, 2015 in the Petitioner's Writ Petition No. 873

of 2015, directing the HPC to consider the Appeal of the Petitioner as well as his application for interim relief.

4) Independently, a Writ Petition No. 4892 of 2015 was filed in this Court and that was disposed of on 23rd June, 2015. The SRA, by the impugned order dated 4th July, 2015, dismissed the Petitioner's application.

5) It is contended that in determining the Petitioner's application, the HPC relied upon a corrigendum published in the Government gazette dated 29th October, 2013, which shows that the two survey numbers/plots of land which were earlier deleted from the notification are re-notified as slum.

6) It is in this backdrop the essential contention of the Petitioner's Counsel Mr. Kamat is that the HPC has erroneously relied upon this corrigendum. The corrigendum issued in the year 2013 to correct the notification issued way back in the year 1997 cannot be relied upon. That is obviously a motivated and malafide exercise. The corrigendum is thus seeking to override a binding order of the Slum Tribunal. That was not challenged in any proceedings. Therefore, the correction by way of issuance of corrigendum is not permitted.

7) The second argument is that once the corrigendum falls to the ground, then, the property, which is not declared as a slum or is not a notified slum, cannot be brought in the Slum Rehabilitation Scheme of the SRA. The Developer, therefore, had no authority to proceed against the structures of the Petitioner. The Petitioner being proceeded in this manner that he had approached the authorities. He has not submitted to the jurisdiction of the authorities under the Slum Act. The Consent Terms cannot be read in this manner nor mis-interpreted in the facts of this case. The Petitioner had to approach the HPC and it can take cognizance of the Petitioner's ground of challenge, namely, absence and lack of jurisdiction in the competent authority to pass an eviction order. The Petitioner having applied for declaring him eligible to benefits of the Slum Rehabilitation Scheme does not mean that the challenge to the jurisdiction of the competent authority cannot be raised. That was clearly raised and should have been answered independent of the corrigendum. That having not been done, the impugned orders are liable to be quashed and set aside. The Petition, therefore, must succeed.

8) Mr. Kamat then submits that the law laid down by this Court in the case of *Om-Sai Darshan Co-operative Housing Society and Anr. vs. State of Maharashtra and Ors.* reported in **2006(5)**

ALL MR 323 would apply to this case. He relies upon paras 19 and 20 of this judgment. Mr. Kamat sought to distinguish the judgment of the Hon'ble Supreme Court of India in the case of *Balasaheb Arjun Torbole and Ors. vs. Administrator and Divisional Commissioner and Ors.* reported in **(2015) 6 SCC 534**. He submits that the facts in this case are not identical to *Torbole's* case (supra). That was a clubbing of private and public lands on which slums were situate, for the purpose of a combined scheme. That could have been framed and implemented is the conclusion reached in the Hon'ble Supreme Court judgment. That is not the controversy before us.

9) On the other hand, Mr. Dhakephalkar, learned Senior Counsel appearing for Respondent No. 6 would submit that there were 47 structures on the plot of land. 45 of them have been demolished and the persons residing therein have been evicted. Those eligible have been shifted to either transit accommodation or have been granted compensation in lieu thereof. The Petitioner attempts to knock out and extort something more than his entitlement. That is why so many legal proceedings have been initiated. This is nothing but exploiting the situation to one's advantage and merely because the Petitioner's structures are located facing the road. These are well known tactics employed to

pressurise the Developer to give into the illegal allotments of the Petitioner. Furthermore, inconsistent and conflicting stands have been taken. Sometimes the jurisdictional challenge is raised. Thus, the authorities are approached so as to extend the benefits of the Slum Rehabilitation Scheme to the parties like the Petitioner. At the same time, they and the Developers so also other dwellers are taken to Court by raising challenge to their orders on the ground that non-slum areas are included in the Slum Rehabilitation Schemes. In these circumstances, Mr. Dhakephalkar would submit that the SRA as also the HPC are right in their conclusions. The parties like the Petitioner cannot go on exploiting the situation to the disadvantage of those who are evicted. Now, a seven storied structure is constructed at site and at such a belated stage, this Court should not entertain the Petition but dismiss it.

10) We have, with the assistance of the learned Counsel appearing for the parties, perused the Writ Petition and all Annexures thereto. We have also perused the Chamber Summons seeking to amend the Petition. We have perused the affidavit in reply of Respondent No. 6 in both, the Writ Petition and the Chamber Summons together with the Annexures thereto.

11) Even if one assumes that the Petitioner can challenge

the corrigendum by amending the Writ Petition, really, the question arises as to what relief could be granted in this Court's equitable and discretionary Writ Jurisdiction under Article 226 of the Constitution of India. In that regard, we have carefully perused each and every paragraph of the Writ Petition. The Writ Petition itself proceeds on the footing that the Petitioner is eligible to obtain the benefits under the Slum Rehabilitation Scheme. The tenor of the application is that the Petitioner's name should have been included in Annexure - II and in relation to two structures. The Petitioner refers to the fact that originally his wife Hiraben alias Hirabai Premji Gada was a tenant in respect of Shop Nos. 4 and 5. He relies upon rent receipts, copies of which are at Annexure 'A' collectively. A careful perusal of the same would indicate that it is issued in the year 1988. The date is 6th July, 1988. It refers to two shops. However, the Petitioner states that the landlord, who let out the shops to his wife is Mohammed Ayyub Mehboobali. It is then stated that always these two shops have been treated distinctly and as separate tenancies. Then, it is stated that these two shops were utilised for grocery business. Then, it is stated that in June, 1996, the Mumbai Municipal Corporation widened the East side of the road abutting these two shops and that is how during the said process these were damaged. The Petitioner did not file any legal proceedings, but

some other lady is supposed to have filed a Writ Petition. The Petitioner relies upon the document at page 41 of the paper book, which states that the Petitioner sought permission to carry out repairs. The repairs are to increase the height of the roof by 17 feet. The status of the structure will remain, according to the Corporation, the same. Then, the Corporation imposed some conditions while permitting a mezzanine floor. However, this application made by Shri. H. P. Gada, Mehboob Ali Chawl No. 4 does not refer to any two shops or shop Nos. 4 and 5 nor does it evidence two structures. Annexure 'D' is then relied upon, which is an agreement under which the ownership of the shops was transferred. This agreement is with Karam Hussain Gulam Rasul Khan, Karam Hussain Mohammad Siddique, Mulgar Motigar Goswami and Popat Maruti Ghanwat. It is on this agreement that the Petitioner is possibly relying upon as there it mentions two shops, namely, Shop Nos. 4 and 5.

12) We do not see how a person who throughout claims that he was illegally removed or sought to be removed from the property, in the garb of implementation of Slum Rehabilitation Scheme, can place these factual details. That is obviously with a view to obstruct the scheme. The Petitioner on one hand applies for benefits under the Slum Rehabilitation Scheme by instituting

multiple proceedings. To aid and support his arguments in the proceedings he relies upon information obtained by somebody else as also him under the Right to Information Act, 2005. He goes as far as saying that the property on which the Petitioner's shops are located is not declared as a slum or notified as such. The Petitioner has claimed information under the Right to Information Act. At the same time, he refers to a letter dated 13th September, 2014 addressed to him by M/s. Royal Realtors, copy of which is at Annexure 'G' at page 59 of the paper book. The right claimed by Respondent No. 6 is to develop the immovable property including CTS Nos. 730 and 730/1 and 2. They rely upon the permission and authority granted by the SRA and inform the Petitioner that they have started the work of demolition of the structures. The correspondence, namely, letters are addressed to the Petitioner. The Petitioner then obtains some more information when he receives a reminder from the Developer that if he does not vacate, he would be evicted by such a process as is permissible in law. We find that while pursuing the application seeking information, the Petitioner also seeks to rely on documents such as electricity bill, copy of which is at page 70 of the paper book, which refers to Mehboob Ali Chawl No. 4. The document at page 71 also refers to the chawl. We find that on the strength of these documents, the Petitioner approaches the Chief

Executive Officer of SRA by writing a letter/notice through his Advocate. That is at page 78 of the paper book and dated 14th October, 2014. While relying upon the letter dated 22nd July, 2010 from the Deputy Collector, Encroachment, Malad stating that the above mentioned property is not declared as slum, the Petitioner interestingly in para 4 states that the scheme is not properly executed. The said M/s. Royal Realtors has given false promises. He is therefore withdrawing his consent. He then makes a complaint of some unknown persons barging in his property and seeking to evict him. It is indeed surprising that this letter and through his Advocate to question the jurisdiction and power of a statutory authority would contain a statement about implementation and execution of the scheme and consent thereto by the Petitioner. It is in this backdrop, if the Consent Terms are perused, we do not think that any statement therein or in the pleadings in the Suit can bind the statutory authorities. After these Consent Terms, the Petitioner seeks further information under the Right to Information Act, 2005. He calls upon the authority to furnish him copy of the gazette dated 19th October, 1977 and other documents. The Petitioner relies upon order passed by the Slum Tribunal and particularly the endorsement therein that CTS Nos. 730 and 730/1 and 2 are deleted as per Tribunal's order. Pertinently, the Petitioner, in the

Petition, itself states that the two shops are situate at Survey No. 279, CTS Nos. 730 and 730/1 and 2 of Malad village. CTS No. 730 does not find any mention in the document, copy of which is at page 83 of the paper book. CTS No. 730/1 and 2 has been declared to be slum, according to the notification published in the Maharashtra gazette dated 10th November, 1977, copy of which is at page 84 of the paper book.

13) We are of the opinion that if this was the case throughout of the Petitioner, then, while making complaints to the statutory authorities and one of which is made on 25th November, 2014, the Petitioner once again would not raise the issue of his entitlement. At page 89 of the paper book is a copy of this letter addressed by the Petitioner to the Additional Collector and on the subject of request and/or application for re-survey and re-measurement of his structures being Shop Nos. 4 and 5 situate on piece of land bearing CTS No. 730. In this letter at page 90 he states that while carrying out the survey of his two shops, measurement was not properly taken. In the Annexure - II, the areas of his shops are wrongly mentioned. The area of his Shop Nos. 4 and 5 of ground floor is approximately 1200 square feet and mezzanine floor is approximately 1200 square feet. He relies upon the plan prepared by the Deputy Collector, wherein, his

Shop Nos. 4 and 5 can be seen along with the mezzanine floor. The area of shop as shown in the Annexure - II is hardly 210 square feet each. This measurement is wrong and therefore he seeks re-survey.

14) We have been noticing that parties like the Petitioner, and similarly situate like him enter upon properties for erecting and constructing temporary slum like structures. They then seek to bargain with the private players brought in for implementation of a Slum Rehabilitation Scheme. This bargain is for obtaining more area or additional benefits. That is how the legal process is resorted to. It is time that this Court comes down with a heavy hand on parties like the Petitioner. It is convenient for them to write letters and make complaints to statutory authorities during the course of implementation of the scheme. The complaint is that they have been wrongly excluded or left out or denied benefits. We are surprised as to whether such legal battles can indeed be initiated by slum dwellers and from the poor section of the Society. They do not have legal access ordinarily. However, in all such matters, the persons behind them or the persons at whose instance they engage in such legal battles cause harm to them rather than obtain any benefits for them. If parties like the Petitioner before us do not realise the loss and prejudice resulting

from taking assistance of such persons, then, it is time for this Court to impress upon them that they will not be granted any equitable and discretionary relief by a Court of law. If the conduct of parties like the Petitioner is as noticed by us that alone disentitles them from any benefit under the Slum Rehabilitation Scheme. The Courts have to pass orders to exclude them after they are exposed before the Court. We find from page 91 of the paper book that the Petitioner, through his Advocate, writes a letter to the Chief Executive Officer of the SRA and relies upon the tenancy in the name of his wife. Here he mentions that the tenancy is of two shops and of his wife. It is then stated that the Petitioner has purchased these shops. It is on the contents of this letter that the Petitioner presents the present Petition. He thinks that by pointing out this letter, he would be able to support the argument on the issue of jurisdiction raised before us. If this letter is perused as a whole, it reveals that it is nothing but a request to include the Petitioner in the Slum Rehabilitation Scheme and extend to him the benefits. That is how on receipt of this letter on 12th December, 2014, the Executive Engineer of the SRA is requested by the Assistant Registrar, Co-operative Societies to take appropriate steps in pursuance of this complaint. Thereafter, on 18th October, 2014, after a revised Letter of Intent is issued, the Petitioner is aware that Respondent No. 6 would be

in a position to proceed in accordance with the same. It is on perusal of the contents of this revised Letter of Intent that the Petitioner pursues his claim. On 19th December, 2014, the Petitioner receives a notice from the Deputy Collector (Encroachment and Removal) and Competent Authority, Malad. On receipt of this letter, the Petitioner has approached the HPC. The HPC is approached with similar averments and though Mr. Kamat would rely upon one of the statements and allegations therein and particularly with regard to the slum notification declaring CTS No. 730/1 and 2 as slum, thereafter deleting it, we would not be in a position to uphold his contentions. We cannot pick up one ground and averment in isolation and read it out of context. The whole application is aimed at claiming a direction to the competent authorities to include the Petitioner in the scheme. That is how even the prayer at pages 127 to 129 of the paper book forming part of the application would read. The Petitioner then comes to this Court and seeks a direction from this Court on the footing that if any adverse order is passed, it should not be implemented. That is to enable the Petitioner to move the competent authority. That is how the Petitioner, on the application which was moved seeking his eviction, contests the proceedings, but, being unsuccessful in obtaining any benefits, challenges the order dated 18th May, 2015 before the Additional

Collector (Encroachment and Removal), Western Suburb and appellate authority by an Appeal under section 35 of the Slum Act. While that Appeal is also dismissed, the Petitioner files the Writ Petition in this Court being Writ Petition No. 4892 of 2015 and the learned Single Judge, before whom the Petition is placed, is requested to note the ground challenging the order of eviction, namely that the Petitioner's structure is not situate on a plot of land declared as slum. The Petitioner, therefore, projects as if he is challenging the Letter of Intent issued in favour of the Builder and Developer. That is how the Petitioner's Counsel submits that the HPC is seized of the proceedings filed by the Petitioner and a Division Bench has directed that Committee to dispose of those proceedings within four weeks. That is how the Petitioner requests the learned Single Judge not to evict him till the HPC decides the matter.

15) Thus, the design is to continuously drag the statutory authority and the Developer to Court or to flood them with written requests for the Petitioner's inclusion. Having given his consent to include his structure in the Slum Rehabilitation Scheme, the Petitioner is aware that he cannot challenge it or the power of the authorities to undertake and implement it. The Petitioner is aware that he can be included in the scheme only if

he fulfills the eligibility criteria. Having realised that he cannot obtain the identical area in the redeveloped portion, the Petitioner changes his stance and questions the jurisdiction of the authority to touch and remove his structure. He continues to exert pressure on the Developer at the same time by writing letters to the statutory authority. The Petitioner's strategy is thus two fold. Firstly, to thwart the scheme by raising the issue of a non-slum structure belonging to him being illegally included in the slum rehabilitation project on adjoining properties/lands and secondly, consenting to such inclusion and try to obtain maximum commercial area for himself and his wife. Knowing that there is a cap on the area and to be made available to eligible slum dwellers and the Petitioner cannot get a special treatment in the scheme that pressure tactics through legal process is the mode chosen. Hence, the conduct of the Petitioner lack bonafides to say the least.

16) We do not see anything in any orders by which we can take note of the Petitioner's contentions raised before us. Rather, the HPC, which had all the facts before it, rightly proceeded to consider the Petitioner's request as essentially being for inclusion in the Slum Rehabilitation Scheme. It may have referred to a corrigendum. However, its order is essentially based on the

Petitioner's eligibility for inclusion in the scheme. The Petitioner, therefore, argues his case only on that footing and paras 4 to 6 of the order of the HPC are indicative of the same. That is how the HPC says that the eligibility in regard to the structure is kept pending and the Committee therefore directed the Petitioner to produce documentary proof of eligibility before the competent authority. That is how the directions in para 6 (i) and (ii) with regard to the claim of two structures is to be dealt with. We are, therefore, of the opinion that there is considerable substance in the contentions of the contesting Respondents, that this Writ Petition is not projecting a case of lack of jurisdiction or competence in the authorities but seeking a direction to consider the Petitioner's eligibility for two shops. The Builders and Developers may say that in the event the eligibility is established and proved, they would accommodate parties like the Petitioner. However, when they object to the Petitioner's claim by relying on his lack of honesty and sincerity, then, they cannot on their own and as a private arrangement seek to extend any benefit to him. The due process of law is to resort to the Slum Act. That has been admittedly resorted to. In these circumstances and the Petitioner having been unsuccessful in establishing his claim before the competent authority as well as the appellate authority that we are unable to uphold the contentions of Mr. Kamat. We are

therefore not required to refer to any provisions of law or judgments of the Court. However, we are of the opinion that the judgment of this Court in the case of *Om-Sai Darshan Co-operative Housing Society* (supra) will have no application to the facts and circumstances of the present case. True it is that the Slum Rehabilitation Scheme has to be on lands designated and declared as slums or censused slums. The present case being under Regulation 33(10) of the Development Control Regulations for Greater Mumbai, the area being censused and the structures being found to be slums that it is not necessary to disturb or interfere with the implementation of the scheme at the instance of parties like the Petitioner and whose conduct is totally blameworthy. We do not find any deviation made from the principles of law and culled out in paras 19 and 20 of this judgment. For the reasons indicated above, we do not find that it is necessary to refer to the Hon'ble Supreme Court's judgment.

17) Having found that the Petitioner raised the issue of jurisdiction not only belatedly but with a view to obtain impermissible benefits by exerting pressure on the statutory authority that we are of the opinion that Writ Jurisdiction cannot be exercised for him. The Writ Petition is therefore devoid of any merits and is dismissed. We would have been wholly justified in

imposing heavy costs but refrain from doing so in view of the earlier orders of this Court.

18) At this stage, Mr. Kamat seeks continuation of the ad-interim order passed on 16th July, 2015 restraining the authorities from evicting the Petitioner.

19) Mr. Jakhadi appearing for Respondent No. 6 opposes this request and submits that having found that the conduct of the Petitioner is objectionable, he is dis-entitled to any equitable and discretionary relief, he should not be allowed to hold on to the premises so as to obstruct the implementation of the scheme. That would not be in the interest of others who are awaiting the fruits of the development at site.

20) We find substance in the objection of Mr. Jakhadi and reject the request of Mr. Kamat.

(B.P.COLABAWALLA, J.)

(S.C.DHARMADHIKARI, J.)