

Slum Areas (Improvement, Clearance & Redevelopment) Act, 1971 to vacate and handover his premises to the developer for carrying out development. He submits that in the present proceeding, his predecessor Dharma Ragho Khot was in possession of the suit hut. During his lifetime, Petitioner started staying with him and therefore, he is entitled to the benefit of the said redevelopment scheme. These facts are not considered by the authorities below and hence, this Hon'ble Court be pleased to set aside the orders passed by both the authorities directing them to first decide the petitioner's eligibility in the redevelopment scheme and then only the petitioner can be directed to vacate the suit premises. The learned counsel for the petitioner submits that without deciding the petitioner's eligibility in the scheme, if the respondent evict the petitioner from the suit premises, irreparable loss and injury will be caused to him.

4 On the other hand, the learned counsel for the respondents vehemently opposed the present Writ Petition.

5 The learned counsel Mr. Mukul Taly appearing on behalf of respondent no.5 developer submits that earlier some occupants of the hut from the same project filed Writ Petition (L) No. 1872 of 2014 before this Court for same relief. That Writ Petition was dismissed on 08.05.2015 holding that though, the petition deserves to be dismissed with exemplary costs, however considering the fact that petitioners are poor slum dwellers and ill-advised by some vested interest, the costs was not imposed. He further submits that even our High Court in the matter of *Andrade Motors V/s. Additional Collector (Enc./Rem) & Competent Authority & Ors. reported in 2009(3) Bom.C.R. 120* held

as under:

“11. The issue of the Petitioner's entitlement pursuant to Circular No. 70 dated 30th December, 2004 and issue of CRZ, affecting the scheme are kept open for appropriate challenge by appropriate proceedings. In my view, the Authority under Section 33 of the Act, has very limited power and jurisdiction. It only requires to consider if the person though directed not shifting or vacating the plot in question and as it affecting the progress of the scheme/ project, after hearing such person, to pass order of eviction. This Authority has no jurisdiction and authority to test the validity of SRA Scheme and Letter of Intent already issued on such issues.

12. The Schemes under the Act are with intention to redevelopment of Slums and Rehabilitation of the slum dwellers. The "Competent Authority" and the "Slum Rehabilitation Authority- SRA" or "High Power Committee" are distinct Authorities with "Special power and jurisdiction".

13. The Authority under Section 33 of the Act, is not empowered to interfere with the final sanctioned scheme. Therefore, no question to deal with the various challenges raised about the CRZ and the entitlement of extra area/structures, merely because the Petitioner has raised such issues and resisted by the other side, that itself noway enlarge the scope and purpose of Section 33 of the Act and related Rules. Even otherwise, the Petitioner's remedy is elsewhere.”

6 The learned counsel for the respondent No.5 developer submits that both the authorities below after considering the evidence on record categorically held that the petitioner is not eligible for benefit in the present scheme. He further submits that the respondent no.5 on humanity ground agreed to provide one year rent to the petitioner during the pendency of his further application for the eligibility, but the same offer was declined by the petitioner. He submits that in the present proceeding out of 433 hut dwellers, already 426 vacated the huts and in respect of remaining, proceeding is pending before the

authority. He submits that in the interest of justice this Hon'ble Court be pleased to dismiss the present petition because the interest of more than 426 peoples who already vacated the premises is involved.

7 I heard both the sides at length. Admittedly, as of today as held by both the authorities below, the petitioner is not entitled to any relief in the present proceeding. Apart from that our High Court in the matter of *Sunil Pandurang Telge V/s. Deputy Collector (Enc. /Rem.) & Competent Authority & Anr. in Writ Petition (L) No. 1872 of 2014* categorically held that in the interest of large number of hut dwellers, the present project should not affect.

8 Considering the facts of the present matter and earlier orders passed by this Court on 08.05.2015 in Writ Petition (L) No. 1872 of 2014 and law declared by this Court in the matter of *Andrade Motors (supra)*, I am of the opinion that petitioner failed to make out any case to entertain the present petition.

9 It is to be noted that if the petitioner succeeds in his application to show that he is eligible for all the benefits in the present scheme, then that to be provided by the Developer according to law.

10 With these observations, Writ Petition is dismissed. No order as to costs.

(K.K.TATED, J.)