

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
Writ Petition NO. 2508 OF 2016**

MR. SUBHASH GANPAT CHAVAN	...Petitioner
<i>Versus</i>	
THE STATE OF MAHARASHTRA AND ORS.	...Respondents

**WITH
Writ Petition NO. 2507 OF 2016**

MR. VIJAY KALYAN PANCHAL	...Petitioner
<i>Versus</i>	
THE STATE OF MAHARASHTRA AND ORS.	...Respondents

**WITH
Writ Petition NO. 2509 OF 2016**

MR. HARIBHAI L. SUTAR	...Petitioner
<i>Versus</i>	
THE STATE OF MAHARASHTRA AND ORS.	...Respondents

**WITH
Writ Petition NO. 2510 OF 2016**

MR. LAXMICHAND L. SUTAR	...Petitioner
<i>Versus</i>	
THE STATE OF MAHARASHTRA AND ORS.	...Respondents

**WITH
Writ Petition NO. 2511 OF 2016**

MR. NAVALSANG JADEJA	...Petitioner
<i>Versus</i>	
THE STATE OF MAHARASHTRA AND ORS.	...Respondents

WITH
Writ Petition NO. 2512 OF 2016

MR. ANANT MAHADEO CHAVAN	...Petitioner
<i>Versus</i>	
THE STATE OF MAHARASHTRA AND ORS.	...Respondents

WITH
Writ Petition NO. 2514 OF 2016

MR. ARUN KALYAN PANCHAL	...Petitioner
<i>Versus</i>	
THE STATE OF MAHARASHTRA AND ORS.	...Respondents

WITH
Writ Petition NO. 2515 OF 2016

MR. JANARDAN MAHADEV CHAVAN	...Petitioner
<i>Versus</i>	
THE STATE OF MAHARASHTRA AND ORS.	...Respondents

WITH
Writ Petition NO. 2516 OF 2016

MR. VIJAY LAXMAN GAONKAR	...Petitioner
<i>Versus</i>	
THE STATE OF MAHARASHTRA AND ORS.	...Respondents

Mr. M. S. Surana for the Petitioners in all the Petitions
Ms Aparna Vhatkar, AGP for the Respondent Nos.1 to 3
Mr. Santosh Kori for the Respondent No.5
Mr. S. N. Bandkar for the Respondent No.6
Mr. S. P. Thorat for the Respondent No.7

CORAM: R.M. SAVANT., J
DATED: 16th March, 2016

PC:-

1 The above Petitions take exception to the orders all dated 5-5-2015 passed by the Competent Authority i.e. the Deputy Collector

(Encroachment and Removal) Western Suburbs, making the notice issued under Section 33 of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (for short the Slum Act) absolute and directing the eviction of the Petitioners from the tenements in question. The Petitioners also take exception to the orders dated 29-1-2016 passed by the Additional Collector (Encroachment and Removal) Western Suburbs by which order, the Appellate Authority i.e. the Additional Collector has dismissed the Appeals and thereby confirmed the orders dated 5-5-2015 passed by the Competent Authority i.e. the Deputy Collector (Encroachment and Removal) Western Suburbs.

2 The cause for initiating the proceedings against the Petitioners under Section 33 of the Slum Act was the fact that the Additional Collector has declared the Petitioners as ineligible after they were held to be eligible in Annexure II by the Competent Authority. It seems that an inquiry was conducted by the Additional Collector pursuant to the complaint made by the Respondent No.6 to the above Petitions.

3 Be that as it may, the Learned Counsel appearing for the Petitioners Mr. Surana on instructions of the Petitioners states that the Petitioners would not press the above Petitions in so far as the challenge to the orders passed under Sections 33 and 38 of the Slum Act, but would be satisfied

if the Appeals i.e. Appeal Nos. 1493 of 2012, 1495 of 2012, 53 of 2012, 58 of 2012, 1489 of 2012, 1492 of 2012, 1490 of 2012, 1494 of 2012 and 1491 of 2012 filed by them before the Additional Collector in respect of their eligibility is decided within a particular time frame and the Petitioners are protected till then.

4 In so far as the said aspect is concerned, it is required to be noted that the Appellate Authority has changed by virtue of the Notification dated 13-01-2014 published in the Government Gazette on 18-1-2014. Hence in so far as the Appellate Authority is concerned, now it is no more the Secretary, Slum Rehabilitation Authority who is the Appellate Authority but it is the Additional Collector (Encroachment and Removal). Since the original order has been passed by the Additional Collector Western Suburbs, declaring the Petitioners as ineligible and since the Secretary SRA is no more the Appellate Authority, the Appeals would have to be directed to be heard by the authority who is higher in rank than the Additional Collector as the Additional Collector (Encroachment and Removal) obviously cannot hear the Appeals directed against an order passed by an officer of the same rank. Hence in the peculiar facts and circumstances of the case, the Collector Mumbai Suburban, District is directed to hear and decide the Appeals (numbers mentioned hereinabove) filed by the Petitioners. The Collector to call for the Appeals from the office of the Additional Collector (Encroachment and Removal) Western Suburbs as this

court is informed that the Appeals were already transferred to the Additional Collector after the Notification dated 13-1-2014 was issued. The hearing of the Appeals to commence before the Collector, Mumbai Sub Division on 15-4-2016 and the Appeals to be decided latest by 31-5-2016. Till 10-6-2016 the Petitioners are not to be removed from the tenaments in question. The Learned Counsel for the Petitioners states that the Petitioners would not deal with the tenaments in question in whatsoever manner. Statement is accepted.

5 In the light of the above, the Petitions to stand disposed of.

(R.M. SAVANT.,J.)