

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.5147 OF 2014

Mr. Hanumant Laxman Jadhav and others **..Petitioners**
Versus

**Competent Authority,
Slum Development, Pune Municipal Corporation
and others** **..Respondents**

Mr. K. P. Mali for the Petitioners.

Mr. Deepak R. More for the Respondent Nos.1 and 2.

Mr. G. S. Godbole i/by Mr. P. M. Tilak for the Respondent No.3.

**Mr. A. Y. Sakhare, Senior Advocate i/by Mr. Prashant Kulkarni for the
Respondent No.6.**

CORAM : R. M. SAVANT, J.

DATE : 30th NOVEMBER, 2016

PC.

1 The above Writ Petition takes exception to the order dated 23.01.2014 passed by the Learned President of the Maharashtra Slum Tribunal, Mumbai, by which order, the Appeal filed by the Petitioners being Appeal No.31 of 2013 came to be dismissed and resultantly, the notification dated 08.08.2013 issued under Section 3(C)(1) of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (For short “the Slum Act”) declaring the land in question as a “slum rehabilitation” area came to be confirmed.

2 The Petitioners herein have their structures on land bearing

Survey No.450/2A/1/1 and 2 and survey No.450/2A//2, bearing final plot No.103 (Part) Panmala, Tadiwala Road, Sangamwadi Pune. The Petitioners' structures are amongst about 146 structures which are on the land in question. It appears that an area admeasuring about 2952 sq.mtrs. out of the larger area has already been declared as slum under Section 4(1) of the Slum Act on 01.05.1980. It seems that a developer has already implemented a slum rehabilitation scheme on the part of the area declared as a slum. In so far as the area excluding 2952 sq.mtrs. is concerned, after following the gamut of the process as contemplated by Section 32(C) of the Slum Act a final notification came to be issued on 08.08.2013 declaring an area of 3254 sq.mtrs. as a slum rehabilitation area. As indicated above, the Petitioners are having their structures on the said plot of land. The Petitioners therefore filed an Appeal before the Maharashtra Slum Tribunal challenging the notification dated 08.08.2013 issued under Section 3(C)(1) of the Slum Act. The principal ground on which the said notification challenged was that the Petitioners were not heard prior to the issuance of the notification and that the work relating to survey was assigned by the Respondent No.1 Slum Rehabilitation Authority to an NGO "Mashal" and therefore according to the Petitioners the same was not in accordance with the provisions of the Act. In so far as the aforesaid two aspects are concerned, the same were dealt by the

Maharashtra Slum Tribunal. In so far as the first aspect is concerned, the Maharashtra Slum Tribunal was of the view that the Petitioners can only be said to be the owners of the super structure and that they do not have any vestige of right in so far as the land on which the structures are situated and therefore they are not entitled to be heard in so far as the issuance of the declaration under Section 3(C)(1) of the Slum Act is concerned. In so far as the second contention is concerned, the Maharashtra Slum Tribunal adverted to the fact that though apart from the said NGO “Mashal” carrying out the survey, the Assistant Engineer of the Pune Municipal Corporation who was the Competent Authority at the relevant time carried out the survey of about 28 structures which are on the said land. The Maharashtra Slum Tribunal accordingly did not find any merit in the Appeal and accordingly dismissed the same by the impugned order dated 23.01.2014.

3 The Learned Counsel appearing for the Petitioners Mr. K. P. Mali would seek to reiterate the said two contentions which were urged before the Maharashtra Slum Tribunal on behalf of the Petitioners. The Learned Counsel sought to place reliance on the judgment of the Apex Court reported in AIR 1991 SC 1117 in the matter of The Scheduled Caste and Weaker Section Welfare Association (Regd.) and another Vs. State of Karnataka and others to contend that it is held in the said

judgment that the persons similarly situated as the Petitioners were entitled to be heard in the matter of declaration of an area as a slum area.

4 In so far as the judgment of the Apex Court is concerned, the facts in the said case are clearly distinguishable from the facts of the instant case, as in the said case the decision to rescind the earlier notification of declaration of slum was sought, it is in the said context that the Apex Court held that the association of slum dwellers was entitled to be heard. The instant case, is a case where the land whereon the Petitioners structures are situated is declared as a slum rehabilitation area, the Petitioners obviously cannot have a grievance in respect of such a declaration. The opposition of the Petitioners is therefore difficult to comprehend.

5 In my view, it is not possible to accept the said contentions urged by the Learned Counsel for the Petitioners. Apart from the fact that the said two contentions have already been dealt with by the Maharashtra Slum Tribunal and negatived, which finding this Court does not deem it appropriate to interfere with in its writ jurisdiction under Article 227 of the Constitution of India. One cannot loose sight of the fact that the Petitioners have no vestige of right or authority in respect of the

land in question on which their structures are situated. The Petitioners at the highest can be entitled to their rehabilitation in terms of the policy of the State Government. In so far as the said aspect is concerned, it appears that in the list i.e. Annexure-II prepared of the eligible slum dwellers, out of the 30 Petitioners 11 have been declared as eligible. The 11 Petitioners therefore would be entitled to allotment of permanent alternate accommodation and pending the construction of the permanent alternate accommodation to temporary transit accommodation or transit rent whichever is offered by the Respondent No.3. It is also required to be noted that out of 146 slum dwellers 113 have vacated their structures and have shifted to the transit camp provided by the Respondent No.3 and that their structures on the notified land have been demolished. It is therefore the Petitioners who can be said to be causing an impediment in the implementation of the slum rehabilitation scheme in the slum rehabilitation area. In that view of the matter, the exercise of the writ jurisdiction of this Court is not warranted. The Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]