

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.1424 OF 2013
WITH
CIVIL APPLICATION NO.3793 OF 2013**

Mr. Shankar Dhondu Fulsunder & Ors. Appellants
Vs.
The Chief Executive Officer & Ors. Respondents

**ALONGWITH
FIRST APPEAL NO.1419 OF 2013
WITH
CIVIL APPLICATION NO.3790 OF 2013**

Mr. Kanji Maya Boricha & Anr. Appellants
Vs.
The Chief Executive Officer & ors. Respondents

**ALONGWITH
FIRST APPEAL NO.1420 OF 2013
WITH
CIVIL APPLICATION NO.3792 OF 2013**

Mr. Waghji Devashi Padaya Appellant
Vs.
The Chief Executive Officer & Ors. Respondents

Mr. Rajesh B. Parab, Advocate for the Appellants.
Mr. A.R. Patil, AGP for the State.
Mr. Paritosh Jaiswal alongwith Mr. Nikhanj Mehta alongwith Mr.
Ashok Purohit alongwith Mr. Tejas Gokhale alongwith Mr. Shloka
Mali i/by Mr. Ashok Purohit & Co. for respondent no.4.

Coram : **Smt. R.P. SondurBaldota, J.**

Date : 29th March, 2016

P.C.

1 This is a common order on the above three appeals that raise identical issues for consideration of the Court.

2 The appellants are the original plaintiffs, who filed identical suits herein for a declaration that the Letter of Intent issued by respondents no.1 and 2 i.e. the Chief Executive Officer of Slum Rehabilitation Authority and the Slum Rehabilitation Authority in favour of respondents no.4 and 5 is illegal, null and void and not binding upon them in respect of the suit plot of land and structures standing thereon. The other declaration sought by the appellants was that respondents no. 4 and 5 do not have any right to proceed with the implementation of Annexure II/LOI issued by respondents no.1 and 2 in respect of the suit property. The respondents had raised objection to the jurisdiction of the Civil Court based on Section 42 of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 ('the Slum Act, for short), which bars the jurisdiction of the Civil Court to try and entertain any dispute relating to issuance of Letter of Intent and the Annexure II. Perusal of the prayers in the suits are sufficient to confirm the impugned order. It is also to be noted that the suits as filed are simplicitor for declarations without seeking further relief, though the same are capable of seeking. In

that circumstances, in view of the proviso to Section 32 of Specific Relief Act no decree of declaration can be given by the court.

3 Mr. Parab, the learned advocate for the appellants submits that the trial court instead of dismissing the suits ought to have returned the complaints to the appellants for presentation to the proper court. There can be no substance in the submission advanced because return of the complaints is possible only if the same is to be presented to any other civil Court under the Maharashtra Civil Courts Act. A complaint cannot be returned for presentation to the authorities established under the Slum Act. Therefore, the trial court had adopted the correct course of action of dismissal of the suits. Mr. Parab then expresses concern that if the appellants approach the proper authorities to challenge the Letter of Intent, the respondents may set up the order of dismissal of the suit as an objection to the proceedings. If such an objection is raised, it is open for the appellants to point out the correct position in law to the concerned authorities.

4 For the reasons stated above the First Appeals are dismissed. In view of dismissal of the First Appeals, the Civil Applications taken out therein do not survive. The same are accordingly disposed off.

(Smt. R.P. SondurBaldota, J)