

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 9222 OF 2013

Sadiq Mohammad Mustaq Ali .. Petitioner
vs.
The State of Maharashtra and ors. .. Respondents

Mr. Yogesh Sankpal for the Petitioner.
Ms Aparna D. Vhatkar, AGP for the State-Respondent.

CORAM : M. S. SONAK, J.
DATE : 18 OCTOBER 2016.

P.C. :-

1] The challenge in this petition is to the orders dated 21 January 2012 and 9 August 2012 made by the competent authority and the appellate authority respectively under the provisions of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (Slum Act), holding that the petitioner is not an eligible “*slum dweller*” in respect of ID No. 798 in the matter of availing benefits of rehabilitation under the Slum Act. In order to arrive at this reasoning both the authorities have held that the petitioner is already held as an eligible “*slum dweller*” in respect of ID No. 590A and a person, cannot claim eligibility and consequently benefits twice over or in respect of more than one structure.

2] Mr. Sankpal, learned counsel for the petitioner, submits that ID No. 590A or the structure relating thereto, concerns not the petitioner, but Sadiq M. Ali, who is a person quite distinct from the petitioner. Further, Mr. Sankpal submits that the documents submitted by the petitioner have not been properly appreciated by the two authorities and even the benefit of subsequent Government Resolutions (GR) has not been extended to the petitioner. On these grounds, he submits that this Court should interfere with the two orders which concurrently hold that the petitioner is ineligible to avail the benefits of “*slum dweller*” in respect of ID No. 798.

3] Upon due consideration of the petitioner's submissions, this Court, on 3 October 2013 made the following order:

Learned counsel for the petitioner submits that the alternative permanent accommodation in respect of Slum I. D. No.590-A is not granted to the petitioner. Learned counsel for the petitioner, therefore, wants to amend the cause-title of the petition, so as to implead the name of the person, who has got the alternative accommodation in respect of Slum I.D. No.590-A. Leave as prayed for, is granted. Necessary amendment to be carried out within a period of one week from today.

2. Till the next date, the parties shall maintain status-quo as of today.

4] In pursuance of the order, the petitioner has impleaded Mr. Sadiq M. Ali as respondent No.5 to this petition. However, learned

counsel for the petitioner submits that despite best efforts, no service has been effected upon respondent No.5. The cause-list indicates that since 3 October 2013, the matter has been listed on the board on 33 occasions. Since, the petitioner is armed with the *status quo* order, he has obviously displayed no urgency in effecting service upon respondent No.5. If, the orders made by the competent authority and the appellate authority concurrently are to be accepted, then, there is no difference between the petitioner and said Sadiq M. Ali, whom, the petitioner, has now impleaded as respondent No.5, but, failed to effect service upon him for the last three years.

5] In this case, re-verification in relation to the petitioner's entitlement was carried out in pursuance of directions issued by this Court in a public interest litigation, which had highlighted the fact that multiple benefits were being obtained by the same persons. Initially, the petitioner had been held eligible as against Slum ID No. 798. Since, it was suspected that the petitioner is also one of the beneficiaries of multiple allotments, in pursuance of directions of this Court the authorities were directed to verify the documents and to take decision in the matter. In pursuance of such an exercise, the

two authorities have concurrently recorded the finding that the petitioner has already been held as eligible in respect of slum ID No. 590A and therefore, cannot claim eligibility against slum ID No. 798. These are findings of fact and unless perversity is demonstrated, there is no reason to interfere with the same.

6] If the petitioner was indeed serious in his contention that he is not the same as Sadiq M. Ali, then, it was for the petitioner to make good this position before the competent authority or at least the appellate authority. The petitioner has failed to bring any material on record in support of this contention.

7] Despite aforesaid, with a view to afford the petitioner an additional opportunity, this Court, permitted the petitioner to implead the said Sadiq M. Ali as a respondent and thereafter to effect service upon him, so that, at least at this stage, the correct position could be ascertained. However, despite the fact that the matter has come on board on 33 occasions, the petitioner has failed even to effect proper service upon the said Sadiq M. Ali. This circumstance, coupled with concurrent findings of fact recorded by the two authorities render it quite difficult to accept the case of the

petitioner that he has no nexus whatsoever with slum ID No. 590A.

8] The submission that the documents have not been considered or that benefit of subsequent GRs has not been extended to the petitioner, have not been substantiated. The two orders, in terms, hold that the petitioner is ineligible in respect of slum ID No. 798 on the ground that the petitioner is already declared as eligible in respect of slum ID No. 590A. There is no serious dispute that a person cannot claim eligibility in respect of more than one structure. This means that the two orders also confirm that the petitioner is eligible in respect of slum ID No. 590A. There is no case made out, therefore, to interfere with the impugned orders.

9] This petition is therefore, dismissed. The interim order, if any, stands vacated. There shall be no order as to costs.

(M. S. SONAK, J.)

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