

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION STAMP NO.34022 OF 2016**

Mr. Balraj Malesham Boma

..Petitioner

Versus

State of Maharashtra and others

..Respondents

Mr. M. S. Pandey for the Petitioner.

Mr. S. D. Rayrikar, AGP for the Respondent Nos.1 to 3.

CORAM : R. M. SAVANT, J.

DATE : 14th DECEMBER, 2016

PC.

1 The writ jurisdiction of this Court is invoked against the order dated 01.12.2016 passed by the Additional Collector (Encroachment/Removal), Western Suburbs, Mumbai. By the said order, the Appeal filed by the Petitioner under Section 35 of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (For short "the Slum Act") came to be dismissed. The Petitioner's structure is situated on plot bearing CTS No.1A (part) of Survey No.161, Plot No.B-3 and B-4 of village Pahadi, Goregaon, Taluka Borivali, Mumbai. On the land on which the Petitioner's structure is situated, a slum rehabilitation scheme is being implemented through the Respondent No.4 for the Respondent No.5 which is a society of the slum dwellers who had their structures on the said plot of land. In the Annexure-II which has been issued by the Competent Authority, the Petitioner has been declared as ineligible. It seems that in respect of his ineligibility the Petitioner has

filed an Appeal before the Deputy Collector (Encroachment/Removal) which is pending. In view of the fact that the Petitioner's structure was impeding the implementation of the slum rehabilitation scheme in question that the Petitioner was issued a notice under Section 33 of the Slum Act. The said notice culminated in the order dated 09.03.2016 passed by the Deputy Collector (Encroachment/Removal), Western Suburbs. In the said order, the factum of the Petitioner's structure impeding the implementation of the slum rehabilitation scheme has been record. It has also been recorded that the Respondent No.4 is ready and willing to pay an amount of Rs.7000/- as transit rent for a period of six months so that he could make temporary alternate accommodation for himself pending consideration of his Appeal and that the Respondent No.4 would abide by the decision that would be rendered by the Appellate Authority in the event the Petitioner is declared as eligible. The Deputy Collector (Encroachment/Removal) having regard to the aforesaid facts passed the order dated 09.03.2016 directing the eviction of the Petitioner from the site in question and the demolition of the Petitioner's structure.

2 The Petitioner aggrieved by the said order dated 09.03.2016 passed by the Deputy Collector (Encroachment/Removal) filed an Appeal under Section 35 of the Slum Act before the Additional Collector. The

Additional Collector as indicated above has by the impugned order dated 01.12.2016 dismissed the Appeal.

3 It seems that in the light of the orders passed by the Authorities below, a notice was issued to the Petitioner on 07.12.2016 that the Petitioner's structure would be taken up for demolition within 48 hours. It is pursuant to the said notice that the Petitioner's structure has been demolished yesterday i.e. on 13.12.2016 at around 11.30 a.m. Be that as it may, in view of the fact that the Petitioners structure was impeding the implementation of the slum rehabilitation scheme in question as also having regard to the fact that the Petitioner has been declared as ineligible and his Appeal is pending, as also having regard to the fact that the Respondent No.4 is ready and willing to pay an amount of Rs.7000/- to the Petitioner as transit rent for a period of six months, no interference is called for with the orders passed by the Authorities below in the writ jurisdiction of this Court. The Writ Petition is accordingly dismissed.

4 It is however expected of the Respondent No.4 that it abides by its commitment as recorded in the impugned order. The hearing of the Petitioner's Appeal in respect of eligibility is however expedited.

[R.M.SAVANT, J]