

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

**[1] Civil Application NO. 777 OF 2016
IN
Civil Revision Application NO. 559 OF 2016**

**WITH
[2] Civil Application NO. 778 OF 2016
IN
Civil Revision Application NO. 476 OF 2016**

**WITH
[3] Civil Application NO. 779 OF 2016
IN
Civil Revision Application NO. 471 OF 2016**

**WITH
[4] Civil Application NO. 780 OF 2016
IN
Civil Revision Application NO. 473 OF 2016**

**WITH
[5] Civil Application NO. 781 OF 2016
IN
Civil Revision Application NO. 472 OF 2016**

**WITH
[6] Civil Application NO. 782 OF 2016
IN
Civil Revision Application NO. 477 OF 2016**

**WITH
[7] Civil Application NO. 783 OF 2016
IN
Civil Revision Application NO. 474 OF 2016**

WITH

[8] Civil Application NO. 784 OF 2016
IN
Civil Revision Application NO. 475 OF 2016

WITH
[9] Civil Application NO. 785 OF 2016
IN
Civil Revision Application NO. 478 OF 2016

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
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Mr. P.R. Arjunwadkar a/w. Prabha U. Badadare, Advocate for the applicants.

CORAM : R. G. KETKAR, J.

DATE : 22/12/2016

P.C.:

1. Heard Mr.P.R. Arjunwadkar, learned Counsel for the applicants in all the applications, at length.
2. By these applications, the applicant in each application has prayed for recalling the order/s dated 11.8.2016 and the undertaking/s dated 24.8.2016 thereby restoring Civil Revision Applications to its original position.
3. In support of these applications, Mr.

Arjunwadkar strenuously contended that from the documents which are annexed at Exhibits-E & F collectively it would be evident that the suit property is situate in an area which is declared as a 'slum area' and consequently in view of Section 22 of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (for short, 'Act'), the respondent/plaintiff could not have instituted the suit except with the previous permission in writing of the Competent Authority.

4. Mr. Arjunwadkar has taken me through the proceedings of Civil Application No.779/2016 and in particular Exhibit-E Page-51 by which Public Notice was issued by the Deputy Collector (Encroachment/Removal) and Competent Authority, Bhandup (for short, the Competent Authority) on 11.11.2016 (2) communication dated 27.6.2016 addressed by the Secretary, Slum Rehabilitation Authority, Mumbai to Deputy Collector (E/NW), S.R.A. and in particular paragraph-2 thereof as also (3) the Government Resolution dated 16.5.2015 issued by the

Housing Department. He submitted that the documents at Exhibits-E & F as also G.R. Dated 16.5.2015 will conclusively establish that the suit property is declared as a 'slum area' and, therefore, bar is created under Section 22 for filing suit except with previous permission in writing of the Competent Authority or executing the decree without obtaining previous permission in writing of the Competent Authority.

5. I have considered the submissions advanced by Mr.Arjunwadkar. I have also perused the material on record. In order to appreciate the submissions of Mr.Arjunwadkar that the documents at Exhibits-E & F conclusively show that the suit property is situate in an area which is declared as a 'slum area', it is necessary to consider the provisions of the Act. Section 2 (ga) defines the expression "Slum areas" to mean any area declared as such by the Competent Authority under sub-section (1) of section 4 and includes any area deemed to be a slum area under section 4A of the Act. Section 2(hb) defines the expression "Slum

Rehabilitation Area" to mean a slum rehabilitation area, declared as such under sub-section (1) of section 3C by Competent Authority in pursuance of the Slum Rehabilitation scheme notified under section 3B. Section 2(hc) defines the expression "Slum Rehabilitation Authority" to mean the Slum Rehabilitation Authority or Authorities appointed by the State Government under section 3A. Section 2(hd) defines the expression "Slum Rehabilitation scheme" to mean the Slum Rehabilitation Scheme notified under section 3B.

6. Chapter 1-A entitles Slum Rehabilitation Scheme. Section 3-A empowers the State Government to appoint an authority to be called the Slum Rehabilitation Authority for such area or areas as may be specified in the notification and different authorities may be appointed for different areas. Section 3-B empowers the Slum Rehabilitation Authority, with the previous permission of the State Government, to prepare a general Slum Rehabilitation Scheme for the areas specified under sub-section (1) of section 3A, for

Rehabilitation of slums and hutment colonies in such areas. Section 3C provides for declaration of any area as "slum rehabilitation area" after preparation of slum rehabilitation scheme. Section 4 of the Act empowers the Competent Authority to declare any area satisfying the criteria stipulated therein to be declared as a slum area. Section 4A lays down that any declaration made under section 26 of the Maharashtra Slum Improvement Board Act, 1973, declaring any area to be slum improvement area, and in force immediately before the date of commencement of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) (Amendment) Act, 1976 shall, on and from the said date, be deemed to be a declaration made under section 4 of the Act declaring the same area to be a slum area for the purposes of the Act.

7. During the Course of hearing, I called upon Mr.Arjunwadkar to produce the declarations made either under Section 4 or Section 4A of the Act. He was not in a position to produce declaration either under Section 4 or 4A of the Act and mainly relied upon

Exhibits-E & F as also G.R. dated 16.5.2015. Perusal of the documents relied upon by the applicants show that they are in respect of a slum rehabilitation area and not a slum area. There is a distinction between “slum area” and “slum rehabilitation area”. The expression “Slum Area” is defined in Section 2(ga) and expression “Slum Rehabilitation Area” is defined in Section 2(hb). Section 22 of the Act lays down that notwithstanding anything contained in any other law for the time being in force, no person shall except with the previous permission in writing of the competent authority institute, after commencement of the Act, any suit or proceeding for obtaining any decree or order for the eviction of any occupier from any building or land **in a slum area** or for recovery of any arrears of rent or compensation from any such occupier, or for both; or when any decree or order is obtained in any suit or proceeding instituted before such commencement for the; eviction of an occupier from any building or land **in such area** or for recovery of any arrears of rent of compensation from such occupier, or for both execute

such decree or order. In fact the very issue viz. the suit property is situate in an area which is declared as a slum area was raised in the earlier round of litigation and said issue was concluded by the order passed by this Court in different Civil Revision Applications. Thus, the applicants are once again agitating same point. As said issue is already concluded, no case is made out for recalling the order passed as also permitting the applicants to withdraw the undertakings. Hence, the applications fail and the same are dismissed. As the time is given to the applicants to hand over possession on or before 31.12.2016, list the applications as also Civil Revision Applications for reporting compliance on 10.1.2017.

(R. G. KETKAR, J.)