

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

WRIT PETITION STAMP NO.5392 OF 2017

Janabai Maya Patil

(Since deceased through her legal heir)

Mr. Nandu Chandrakant Patil

..Petitioner

Versus

The State of Maharashtra and others

..Respondents

Mr. R. S. Kate a/w Mr. Y. D. Patil for the Petitioner.

Mr. S. D. Rayrikar, AGP for the Respondent Nos.1 & 2.

Mr. S. A. Sawant for the Respondent No.4.

CORAM : R. M. SAVANT, J.

DATE : 1st MARCH, 2017

PC.

1 The order dated 15.02.2017 passed by the Additional Collector and Appellate Authority, Mumbai City dismissing the Appeal filed by the Petitioner is taken exception to by way of the above Petition. By the said dismissal of the Appeal filed by the Petitioner the order dated 13.10.2016 passed by the Competent Authority i.e. Assistant Commissioner, Municipal Corporation of Greater Mumbai, 'G' South Ward came to be confirmed.

2 The Petitioner is eligible for allotment of a residential tenement in the slum rehabilitation scheme in question which is being implemented by the Respondent No.4 herein. The Petitioner was allotted

a tenement in the rehab building which the Petitioner did not find suitable on the ground that it was inhabitable. It seems that the earlier allottee one Damodar Patil had also turned down the allotment of the said tenement. It has been observed by the slum rehabilitation authority in its order dated 13.07.2015 and in clause (3) of the table therein that if the Petitioner refuses the allotment of the tenement which was earlier allotted to Damodar Patil he may be considered for an allotment of a PAP tenement in any other scheme. The Petitioner is presently occupying a transit structure in which arrangements were made for the Petitioner pending the implementation of the slum rehabilitation scheme. The buildings under the rehab scheme have been constructed as also the sale buildings. The Petitioner's structure is now coming in the way of the Respondent No.4 getting the completion certificate as the Petitioner's structure which is a transit accommodation is on the footpath of the plot of land in question. It seems that against the allotment of the said tenement the Petitioner has represented to the High Power Committee on the ground that the said tenement is inhabitable.

3 In my view, the impugned order directing the Petitioner to vacate the structure in question having regard to the fact that the said structure is a transit accommodation allotted to the Petitioner pending implementation of the slum rehabilitation scheme cannot be faulted with.

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No case for interference in the writ jurisdiction of this Court is therefore made out. However the High Power Committee before whom the representation filed by the Petitioner is pending is directed to hear and decide the Petitioner's representation latest by 15.04.2017 as the time earlier stipulated by order dated 20.12.2016 is already over. It is clarified that there is no interim relief operating in favour of the Petitioner. With the aforesaid directions, the Writ Petition is disposed of.

[R.M.SAVANT, J]