

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13956/2016

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
---	---------------------------

Mr. Vinodkumar Y. Mishra for the petitioner
Mr. Rohan S. Sawant, AGP for the Respondent Nos.1 to 3.
Mr. Tejas Gokhale i/b. Ashok Purohit for respondent SRA.
Mrs. Asha Nair i/b. Diamondwala & Co. for respondent No.8.
Mr. Girish Uttangale with Suyash Godse i/b. Uttangale & Co. for respondent Nos.3 and 6.

CORAM : K. K. TATED, J.

DATE : JUNE 8, 2017

P.C.:

1. Heard. By this petition under Article 227 of the Constitution of India the Petitioner challenges the order dated 01.01.2016 passed by respondent No.2 in Appeal No.463/2015 and order dated 05.11.2015 passed by respondent No.3 against the petitioner in respect of the suit premises i.e. Box No.924, Ganesh Welfare Society, CTS No.827, C1, C2, Room No. 608, Jaldhara CHS Ltd., Shree Krishna Nagar, A.K. Vaidya Marg, Santosh Nagar, Goregaon (E), Mumbai – 400 065.

2. The learned counsel for the petitioner submits that the Authority has failed to consider the relevant documents produced before it to show that the petitioner, through his predecessor is occupying the suit premises since prior to 1995. He submits that the Authority has only considered the sale deed dated 07.05.2009, electricity bill dated 28.05.2011, 29.04.2015 and copy of AADHAR card. He submits that the Authority ought to have held that the petitioner's predecessor Rajendra Prasad Tiwari was in occupation of the suit premises prior to 1995. Hence, the petitioner is entitled for declaration that the premises which he is occupying, is authorised and he is entitled to all the benefits under the SRA Scheme. Hence, both the orders are liable to be set aside.

3. On the other hand, the learned counsel for the respondent opposed the Writ Petition. He submits that the petitioner has failed to produce a single document to show that he was occupying the authorised room and these facts are considered by both the authorities below. Hence, there is no question of re-appreciating the evidence in the petition filed under Article 227 of the Constitution of India. Same is liable to be rejected.

4. It is to be noted that the petitioner has produced on record only agreement of sale dated 07.05.2009, Power of Attorney, Electricity Bill dated 28.05.2011, 29.04.2015 and AADHAR Card. Admittedly, the petitioner was not in possession of the suit premises from 07.05.2009. One Mr. Rajendra Prasad Tiwari was in possession. As the petitioner has failed to make out any case of authorization of the suit premises, there is no question of entertaining the Writ Petition under Article 227 of the Constitution of India to re-appreciate the evidence on record.

5. Hence, the Writ Petition stands rejected.

JUDGE