

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

WRIT PETITION NO.13955 OF 2016

Mr. Anil Hiramani Tiwari

..Petitioner

Vs.

State of Maharashtra & Ors.

..Respondents

Mr. Vinodkumar Y. Mishra for the Petitioner.

Ms. Asha Nair i/b Diamondwala & Co. for the Respondent No.8.

Mr. Girish Utangale a/w. Mr. Sayash Gadave a/w Mr. Chetan Mhatre i/b Utangale & Co. for the Respondent Nos.3, 4 and 6.

Mrs. V. S. Nimbalkar, AGP for the Respondent Nos.1 & 2.

Mr. Tejas Gokhale i/b Ashok Purohit & Company for the Respondent No.5.

CORAM : R. M. SAVANT, J.

DATE : 9th MARCH, 2017

P.C.

. The order dated 1/1/2016 passed by the Appellate Authority i.e. the Additional Collector (Encroachment and Removal) Western Suburbs is taken exception to by way of the above petition.

2. By the said order the Appeals filed by various persons including the petitioner were dismissed and, resultantly, the order dated 5/11/2015 passed by the Estate Officer and the Competent Authority, Mumbai Board came to be confirmed.

3. Insofar as the Petitioner is concerned the Appeal of the Petitioner was Appeal No.458/2015. The Petitioner father had his structure on the land in question on which a Slum Rehabilitation Scheme is being implemented for the benefit of the Respondent No.5 Society, which is a society of the slum

dwellers. Since the land in question was belonging to the Mumbai Board , the Estate Officer of the Mumbai Board was the Competent Authority. The Competent Authority after carrying out survey has published the Annexure-II containing the list of eligible and ineligible slum dwellers. It is an undisputed position that the Petitioner is an ineligible slum dweller. In view of the fact that the Petitioner's structure was impeding the implementation of the Slum Rehabilitation Scheme, a show cause notice u/s.33 of the Slum Act came to be issued to the Petitioner. The Competent Authority i.e. the Estate Officer of Mumbai Board after following the gamut of process, by his order dated 5/11/2015 made the show cause notice absolute and directed eviction of the Petitioner from the land in question. The Petitioner was directed to be evicted with the other persons who had also their structures on the land in question.

4. The Petitioner aggrieved by the said order dated 5/11/2015 passed by the Competent Authority challenged the same by way of an Appeal under section 35 of the Slum Act before the Additional Collector.

5. The Additional Collector having regard to the fact that the Petitioner's structure was impeding the implementation of the Slum Rehabilitation Scheme did not find any reason to interfere with the order passed by the Competent Authority dated 5/11/2015 and, accordingly, dismissed the Appeal by order dated 1/1/2016. As indicated above, it is the said order dated 1/1/2016 which is taken exception to by way of the above

Petition.

6. It is undisputed position that after filing of the above petition the structure of the Petitioner has been demolished. In view of the said supervening event of the structure being demolished, the impugned orders directing eviction of the Petitioner need not be interfered with.

7. The Writ Petition is accordingly dismissed.

8. However, it would be open for the Petitioner to file an Appeal against the declaration of his ineligibility. If such an Appeal is filed before the concerned Appellate Authority within 4 weeks from the date, the concerned Appellate Authority may decide the same expeditiously but not later than 2 months of the receipt of the Appeal.

9. The learned counsel appearing on behalf of the Respondent No.8 states that the cheque for the rent for 11 months as paid to the other ineligible slum dwellers would be paid over to the Petitioner. Statement is accepted. The Petitioner may collect the said cheque from the office of the Respondent No.8 within one week from date.

[R.M.SAVANT, J]