

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

WRIT PETITION NO. 3966 OF 2015

Shri Chaloba Lakhmanna Bachanatti & Anr. ... Petitioners
V/s.
The State of Maharashtra & Ors. ... Respondents

Mr. Manoj Patil i/b Mr. Sachin K. Hande for the Petitioners.
Mr. Vikas Mali, A.G.P. for Respondent Nos.1 and 3.
Mr. D.A. Nalawade for the Respondent No.2.

**CORAM : NARESH PATIL AND
SMT. BHARATI H. DANGRE, JJ.**

DATE : 12th JUNE, 2017.

ORDER : (PER SMT. BHARATI H. DANGRE, J.)

1 The Petitioners have filed Petition in this Court questioning the legality, propriety and validity of the impugned order dated 21.08.2013 passed by the High Power Committee, Bandra and Deputy Collector and Competent Authority in the proceedings in Appeal. The grievance of the Petitioners relates to an eviction order passed under the Maharashtra Slum Areas (Clearance, Improvement and Redevelopment) Act, 1971.

2 The present case has a chequered history and the present Writ Petition is the fourth round of litigation before this Court and the Petitioners have faced four orders before the authorities in hierarchy before the impugned order is passed. The grievance of the Petitioners arose somewhere in the year 2010 when an order of eviction under Sections 33 and 38 of the Maharashtra Slum Areas (Clearance, Improvement and Redevelopment) Act, 1971 was passed by the Deputy Collector (Encroachment and Removal) on 26.10.2010. This order was upheld in an Appeal by the Administrator and Divisional Commissioner on 02.02.2011. The grievance of the Petitioners is that they are residing in the structures owned by the Government of Maharashtra and which were later on converted as structures under the Maharashtra Slum Areas (Clearance, Improvement and Redevelopment) Act, 1971. According to the petitioners, they became the members of Mauli Krupa Co-operative Housing Society Ltd. in the year 1995-96 which was registered under the Maharashtra Co-operative Societies Act, 1960. According to the petitioners, adjacent to the said area, another Co-operative Housing Society viz; Savli Co-operative Housing Society also came to be registered approximately at the same time. The petitioners' contention is that they are the members

of Mauli Krupa Co-operative Housing Society Ltd. in relation to the structures Nos.62 and 65 respectively. According to the petitioners, the Savli Co-operative Housing Society prepared Annexure-II and incorporated the names of the petitioners but the petitioners were never the members of Savli Co-operative Housing Society and it is a grievance of the petitioners that the Mauli Krupa Co-operative Housing Society Ltd. which prepared their Annexure-II document deleted the names of the petitioners and substituted names of some other applicants in their places. With this grievance in hand, the petitioners approached the Authorities on various occasions and had also knocked the doors of this Court unsuccessfully.

3 The first notice issued to the petitioners on 05.08.2010 by the Collector, mentions that the petitioners are members of the Savli Co-operative Housing Society and they are the non-co-operative members and they have been directed to handover the premises for the purposes of carrying out the process for rehabilitation and resettlement. The said notice was based on the entry of the name of the petitioners in Annexure-II of the Savli Co-operative Housing Society. We had asked the learned A.G.P. to keep the record ready for perusal and we have also carefully

perused the record. In the record we have noted the copy of the Resolution of Savli Sahakari Gruhnirman Sanstha Ltd. dated 20.12.1996 whereby the general body meeting of the members of the Society had resolved that 230 members of the Society are agreeable to implement the Slum Rehabilitation Scheme under DCR 33(10) and by the Resolution they had empowered the Promoter Committee to go ahead. Copy of the said Resolution is accompanied with the list of the persons occupying the houses and number of their hutments / houses along with their signatures. The name of the petitioners is found at Sr. Nos.233 and 229 respectively and signatures are also reflected in the last column under the caption "If individual slum dwellers has consented for the scheme, his Signature/Thumb". The said Resolution is as old as 20.12.1996 and there is no reason to dispute the same. The record also contains the Annexure-II of the Mauli Co-operative Housing Society which pertains to an area of 4426.6 sq. mtrs. out of Nala Land near to C.T.S. No.184 (P) of Village Ghatkopar, which is a slum land which refers to 219 structures on the said land and the list of 161 members who are eligible slum dwellers who have consented in writing to the proposed slum Rehabilitation Scheme. The said list does not include the name of the petitioners.

4 After being unsuccessful in this Court in the proceedings in Writ Petition, this Court in Letters Patent Appeal No.125 of 2012 arising out of Writ Petition No.3693 of 2012 remanded the matter vide order dated 21.08.2012 and had directed the petitioners to approach High Power Committee and liberty was given to the petitioners to agitate their grievance before the Committee who was directed to decide the matter on its merits of the High Power Committee by its order dated 21.08.2013 did not find substance in the contention of the petitioners that their names ought to have been included in Annexure-II of the Mauli Co-operative Housing Society and not Savli Sahakari Gruhnirman Sanstha. The Authority in the impugned order, on perusal of the record, had made clear observation that the record forwarded from the slum rehabilitation Authority vide letter dated 25.06.2001 which pertaining to Savli Co-operative Housing Society contains the list of the slum dwellers, includes the name of both the petitioners alongwith their signatures. The Authority also recorded that the Mauli Co-operative Housing Society has also forwarded its proposal to the slum Rehabilitation Authority on 11.11.2004 alongwith the list of affected slum dwellers, which do not contain the name of these petitioners. The Authority has, therefore, observed that they

are entitled for all the benefits of rehabilitation as per Rehabilitation policy, being treated as members of Savli Co-operative Housing Society and since they are not members of Mauli Krupa Sahakari Gruhnirman Sanstha, they should not be entitled for any benefits as members of the said Society. The High Power Committee by the impugned order dated 21.08.2013 has, therefore, rejected the application of the petitioners for including their name in Mauli Krupa Sahakari Gruhnirman Sanstha and their names which are included in Annexure-II by the competent Authority vide letter dated 01.08.2001 are confirmed in the list of members of Savli Co-operative Gruhnirman Housing Society.

5 The petitioners attempted to demonstrate that there is no document on record to show as to how the names of the petitioners have been transported from the Annexure-II of Savli Co-operative Gruhnirman Housing Society to Annexure-II of the Mauli Krupa Sahakari Gruhnirman Sanstha, however the said attempt is baseless since we have perused the record ourselves which includes the Resolution passed long back in the year 1996, reflecting the name of the petitioners in the list of members of Savli Co-operative Gruhnirman Housing Society and based on the said document,

competent authority, the High Power Committee has passed the impugned order.

6 In the aforesaid facts we are of the opinion that the order passed by the competent authority is just and proper based on records and call for no interference and the Writ Petition deserves to be rejected. It is accordingly rejected.

(SMT. BHARATI H. DANGRE, J.)

(NARESH H. PATIL, J.)