

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION St. NO. 33508 OF 2016**

**Vilas Shyamrao Jadhav
Vs.**

..Petitioner

**Additonal Collector @ Appellate Authority,
Mumbai City & Ors**

..Respondents

Mr. Dilip Bodake for the Petitioner

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

**CORAM : R. M. SAVANT, J.
DATE : 11th JANUARY, 2017**

P.C.

1 The Writ Jurisdiction of this Court is invoked against the order dated 5-7-2016 passed by the Additional Collector and Appellate Authority, Mumbai City, by which order the Appeal filed by the Petitioner came to be dismissed and resultantly the order dated 31-5-2016 passed by the Deputy Collector (Encroachment / Removal) came to be confirmed.

2 The Petitioner has a structure on the land on which a slum rehabilitation scheme is being implemented by one Signet Properties Pvt Ltd. On the ground that the Petitioner has carried out unauthorised constructions of the said land that a notice under Section 3Z-2 of the Slum Act came to be issued to the Petitioner calling upon the Petitioner to vacate and remove the structure. On receipt of the said notice, the Petitioner filed a reply and relied upon various documents which he produced before the Competent Authority

i.e. Deputy Collector (Encroachment / Removal) the said documents were to buttress the case of the Petitioner that the structure was in existence prior to cut of date i.e. 1-1-2000 fixed by the State Government for rehabilitation of the slum dwellers.

3 It appears that from the record in respect of another structure the name of the father of the Petitioner Shyamrao Jadhav was appearing in Annexure-II as being eligible. In view of the fact that the structure in question in respect of which notice under Section 3Z-2 came to be issued was impeding the implementation of the slum rehabilitation scheme that the Competent Authority i.e. the Deputy Collector (Encroachment / Removal) Western Suburbs by order dated 31-5-2016 made the notice absolute and directed the Petitioner to vacate and remove his structure. The Petitioner aggrieved by the said order dated 31-5-2016 filed an Appeal under Section 35 before the Appellate Authority i.e. the Additional Collector. The Additional Collector recorded a finding that the documents on which the Petitioner relies do not prove that the structure was in existence prior to 1-1-2000 and that the said documents appear to be in respect of a different structure, did not deem it appropriate to interfere with the order dated 31-5-2016 passed by the Competent Authority i.e. the Deputy Collector (Encroachment / Removal). The Appellate Authority accordingly dismissed the Appeal by the impugned order.

4 As has been indicated in the impugned order the father of the Petitioner as well as the Petitioner have been eligible in respect of the structure No.T-5 shown in Annexure-II which has been published by the Deputy Collector (Encroachment / Removal) in respect of the occupants of the land in question which is being redeveloped by the Signet Properties Pvt Ltd. Hence the conclusion is required to be drawn that the Petitioner has put up another construction without permission which force the authorities to issue notice under Section 3Z-2 as the said structure was impeding the implementation and development of the slum rehabilitation scheme. Pursuant to the impugned order the structure of the Petitioner has already been demolished on 16-9-2016 and the Petitioner has therefore sought the relief that he may be permitted to reconstruct the structure, which cannot be acceded to. Hence no fault can be found with the concurrent orders passed by the authorities below. No case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]