

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.715 OF 2017

Salim Mohd Yusuf Shaikh

...Petitioner

vs.

The Deputy Collector (Encroachment) and
Competent Authority and Others

...Respondents

Mr. Akshay Bobade a/w. Mr. Bharat Punekar, for the Petitioner
Mr. Sukanta Karmarkar, AGP for the Respondent-State.

**CORAM : SHANTANU S. KEMKAR &
A. M. BADAR, JJ.**

DATE : APRIL 26, 2017

P.C.:

. By filing this Petition under Article 226 of the Constitution of India, the Petitioner has challenged the order dated 5th May, 2012 passed by the High Power Committee in Appeal No. 8 of 2012 (Exhibit G) affirming the order passed by the Administrator & Divisional Commissioner, Konkan Division, Mumbai (Exhibit E).

2. We find that the order impugned is dated 5th May, 2012. After about five years the Petitioner has challenged the same in this Petition without explaining the delay in filing the Petition. In the circumstances, for want of explanation to such a huge delay, we are of the view that the Petition deserves to be dismissed, on the ground of delay and laches.

3. Even otherwise we find that both the authorities i.e. Administrator & Divisional Commissioner, Konkan Division, Mumbai as also the High Power Committee after considering the entire facts and circumstances of the case have concurrently held that the Petitioner's structure was not found to be existing either prior to 11th January, 1995 or even prior to 3rd January, 2004 and in the circumstances, the Petitioner is not entitled for any protection and benefit under the slum scheme. It has also been recorded that the Appellant's structure was outside the boundary of the slum Scheme and therefore his name was correctly not included in Annexure II and he subsequently extended his original structure and the same is liable to be demolished by the Competent Authority.

4. In view of the aforesaid findings of the fact as also the gross delay and laches on the part of the Petitioner for invoking extraordinary jurisdiction of this Court, we are not inclined interfere with the impugned order. The Petition deserves to be and is hereby dismissed

(A.M. BADAR, J.)

(SHANTANU S. KEMKAR, J.)