

IN THE COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.1987 OF 2016

Kaju Ramchandra Upadhyay	... Petitioner
v/s	
Gulabchand Balaram Dubey and others	... Respondents

Mr Akhilesh Upadhyay for Petitioner.
Mr Sarman G. Lal for Respondent Nos.1 to 3.
Mr G.D. Utangale with Mr Chetan Mhatre i/b M/s Utangale and Co.
for Respondent No.4.

**CORAM: V.M. KANADE &
P.R. BORA, JJ.**

DATE : 10TH MARCH 2017

P.C. :-

1. Liberty to apply.

2. By this Writ Petition filed under Article 226 of the Constitution of India, the Petitioner is seeking following reliefs :-

“(a) Rule be issued;

- (b) this Hon'ble Court be pleased to declare the LOI and the SRA Scheme sanctioned by the Respondent No.4 Slum Rehabilitation Authority in respect of plot bearing City Survey No.47 pt 1 to 26, Village Mogra, Andheri (East), K/East Ward, Mumbai is illegal and bad-in-law;
- (c) this Hon'ble Court be pleased to declare the Slum Declaration passed by the Respondent No.5 Deputy Collector (Enc.) in respect of plot bearing City Survey No.47 pt. 1 to 26, Village Mogra, Andheri (East), K-East Ward, Mumbai is illegal and bad-in-law;
- (d) this Hon'ble Court be pleased to issue Writ of Mandamus or certiorari or any other appropriate Writ or direction directing the Respondent Nos.4 and 5 to cancel the LOI granted to the Respondent Nos.1 and 32 and also to set aside the gazette notification declaring the area as a slum area being City Survey No.47 Pt. 1 to 26, Village Mogra, Andheri (East), K/East Ward, Mumbai unless and until the 22.50 sq.mtrs. plot of the Petitioner is demarked by the Competent Authority and a rightful access is given to the Petitioner.”

3. Mr Utangale, learned counsel appearing on behalf of Respondent No.4 submits that the Petitioner has an alternate remedy of filing an application before the High Power Committee which is constituted pursuant to the judgment delivered by the Full Bench of this Court in the case of Tulsiwadi CHS Ltd. v/s State of Maharashtra

and others, reported in 2008(5) BCR 1. The Petitioner has also filed a Suit in the Bombay City Civil Court, which is pending.

4. Since the Petitioner has an alternate remedy available to him, we are not inclined to grant any relief in this Petition. Reserving the rights of the Petitioner to exhaust the alternate remedy, Writ Petition is disposed of. All contentions of the Petitioner and the Respondents are kept open.

(P.R. BORA, J.)

(V.M. KANADE, J.)