

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

WRIT PETITION NO. 2932 OF 2018

Chmapabai Wd/of Ankur Shelte ... Petitioner.

V/s.

The Chief Executive Officer (SRA) & Ors. ... Respondents.

Mr. Om Prakash Singh, Advocate for the Petitioner.

Ms. Vrushali Maindad, Advocate for Respondent No.1 /SRA
i/by Mr. Abhijeet A. Desai.

Mr.P. M.Pable, AGP for the Respondent Nos. 2 & 3.

Ms. Kavita S. Solunke, Advocate for Respondent No.4.

**CORAM : R. M. BORDE AND
PRITHVIRAJ K.CHAVAN,JJ.**

DATE : AUGUST 16, 2018

PC :

1 Rule. Rule is made returnable forthwith by consent of the parties and heard finally.

2 The issue raised in respect of entitlement for petitioner for alternate accommodation since she claims have been affected by the development carried by the MMRDA - Respondent No. 4; the development authority i.e. MMRDA has rejected the claim of the petitioner by order dated 10.06.2010. The Appeal presented by the petitioner to the Additional Collector has not been entertained on the ground

that the same has been filed belatedly, after lapse of six years. The Dy. Collector is of the opinion that no sufficient or adequate cause is shown by the petitioner for approaching late. It must be noted that the matter relates to the issue of entitlement of an old lady, who claims to be affected by the development project undertaken by the MMRDA, to claim rehabilitation and her claim, shall have to be decided on its own merit. The petitioner, who is old lady, shall not be unsuited for the technical reasons. The petitioner/ applicant has also in-fact furnished sufficient reasons in respect of the delay caused in approaching the appellate authority. It must also be noted that the petitioner claims to have been rendered homeless on account of the development undertaken by the MMRDA and that she is an old lady of more than 70 years and as such her claim needs to be decided on its own merits and shall not be rejected on the ground of delay.

3 In this view of the matter, the order passed by the Deputy Collector (Encroachment) on 04.01.2017 is hereby quashed and set aside. The concerned authority is directed to decide the appeal of the petitioner on its merit and in accordance with the provisions of law expeditiously and preferably within a period of four months from today. It is also directed that the appeal shall not be rejected for any technical reasons and entitlement of the petitioner shall be examined in accordance with the provisions of law.

4 The petitioner shall cause appearance before the concerned Authority on 3rd September, 2018 and no notice to requiring her appearance before appellate authority shall be necessary.

5 Rule is made absolute in the above terms. There shall be no order as to costs.

(PRITHVIRAJ K. CHAVAN, J.)

(R. M. BORDE, J.)

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