

vai

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (STAMP) NO.9045 OF 2018

Govind J. Prajapati	...Petitioner
V/s.	
The State of Maharashtra & Ors.	...Respondents

Mr.Angad Giri for the Petitioner.
Mr.S.H. Kankal, A.G.P. for the State – Respondent Nos.1 to 4.
Mr.Santosh Pathak for the Respondent No.5.

CORAM : R.D. DHANUKA, J.
DATE : 28TH MARCH, 2018.

P.C. :-

1. The papers are allowed to be produced at 3:00 p.m.
2. By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the order dated 1st March, 2018 passed by the respondent no.1, the order dated 14th June, 2017 passed by the respondent no.2 and the order dated 5th January, 2017 passed by the respondent no.3 under the provisions of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (for short the "Slum Act"). Index-II was issued by the authority in which the name of the petitioner was shown as ineligible. The respondent no.5 accordingly applied for eviction of the petitioner. The said application was decided by the learned Deputy Collector. The order of eviction was passed on 5th January,

2017 by the learned Deputy Collector (Encroachment) against the petitioner.

3. Being aggrieved by the said order, the petitioner filed an appeal against the said order before the learned Additional Collector (Encroachment). By an order dated 14th June, 2017, the Additional Collector rejected the said appeal filed by the petitioner. The petitioner thereafter preferred an appeal under section 35 (1A) of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 act before the Grievance Redressal Committee, Mumbai Suburban, Mumbai. By a detailed order and judgment dated 1st March, 2018, the Grievance Redressal Committee has dismissed the second appeal filed by the petitioner. This order along with two other orders are impugned by this petitioner in this writ petition filed under Article 227 of the Constitution of India.

4. Learned counsel appearing for the petitioner submits that the petitioner has now filed an application for deciding the eligibility of his commercial accommodation on 9th June, 2017 before the learned Deputy Collector (Encroachment). A perusal of the three orders which are impugned in this writ petition clearly indicates that the petitioner could not produce any documents before the authorities to show his right, title and interest in the structure in question. Index-II was prepared in the year 2009 and the petitioner was shown

ineligible. No application for eligibility was filed by the petitioner prior to 9th June, 2017. Two authorities have passed adverse orders against the petitioner before the petitioner filing an application for eligibility.

5. All three authorities have decided against the petitioner and have rendered a findings of fact which are not perverse. Learned counsel for the petitioner could not point out any infirmity in the impugned orders passed by the three authorities. The application now belatedly filed for deciding the eligibility thus cannot be considered by this Court at this stage. The petition is thus devoid of merit and is accordingly dismissed.

6. If the possession of the structure is not handed over by the petitioner to the respondent no.5 within two weeks from today, the Competent Authority, S.R.A. shall dispossess the petitioner along with all other occupants which are found in possession of the structure, with the assistance of police, if necessary and shall hand over possession thereof to the respondent no.5.

7. The writ petition is dismissed. No order as to costs.

8. The parties as well as the Competent Authority, S.R.A. and the local Police to act on the authenticated copy of this order.

(R.D. DHANUKA, J.)