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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 9 OF 2018

Shafikullah Hakikullah Choudhary ...Petitioner
Versus
Deputy Collector (ENC/REM) and The ...Respondents
Competent Authority Bandra-2 & Ors

Mr RR Kanojiya, *for the Petitioner.*
Mr HB Takke, *AGP for the Respondents Nos. 1, 3 to 5-State.*
Mr Milind More, *Additional GP, for Respondent No. 6-SRA.*
Mr Karl Tamboly, *i/b Ravi Thankaian, for Respondent No. 2.*

CORAM: G.S. PATEL, J
DATED: 17th January 2018

PC:-

1. Heard. There are so many inconsistencies in this Writ Petition filed under Article 226 of the Constitution of the Constitution of India that it is hard to know where to begin. The challenge is to an order dated 28 December 2017 of the Apex Grievance Redressal committee (“**GRC**”) established under the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act 1971 (“**the Slum Act**”). By that order the GRC dismissed the Petitioner’s application No. 102 of 2017.

2. The Petitioner claims that he has been wrongly excluded from the final Annexure-II prepared in respect of the New Kalina SRA CHSL, previously known as the Azgar Ali Chawl, and has been declared to be ineligible. Last week, I granted the Petitioner time to prepare a compilation. This has been done and today and I have gone through this with the assistance of the learned Advocate for the Petitioner. Mr More for Respondent for the SRA has also taken me through the order of the Competent Authority passed on 30th March 2017, a copy of which is at Exhibit "E".

3. The claim of the Petitioner is that he has an structure independent of that of his brother Mujeebullah Hakiqullah and his father Hakikullah Mohd Umar. Reliance is placed on a draft Annexure-II, a copy of which is in the compilation, and said to have been prepared by the society and the developer. Here the name of the brother Mujibullah is shown against electoral structure No. T-18 and there is a reference that this has been included in an area of 28 square metres belonging to the father. Two pages further at Sr. No. 62 where we see the name of the Petitioner's father, Hakiqullah Mohd Umar, there is a reference to the very same electoral structure T-18. The area is also the same. In any event, this does not assist the Petitioner in any way because his name does not independently figure in this draft Annexure-II.

4. What the Petitioner says is that there is a document ostensibly showing him to be in occupation of structure T-11 in the electoral rolls. This document is dated 30th December 2015 and a copy is at page 16 of the compilation. It is true that this document shows the name of Shafiquallah Hakikullah. The difficulty is we do not know if

this is the Petitioner. There is the finding of the Competent Authority that at different times different names are used but there is nothing to show that the Petitioner has any entitlement in the name of the person who shown as the Petitioner in the Writ Petition. There is therefore some alleged electoral document that shows part of the Petitioner's name and shows the structure as T-11 but the Petitioner's name and this structure number do not appear in the draft Annexure-II.

5. My attention is drawn to page 21 of the compilation. If there was any vestige of a case, this now completely demolishes it. This is supposed to be a photocopy of the electoral ID card of the Petitioner. It shows his full name as Shafiqullah Hakiqullah Choudhary. The address shown is of a third structure No. T-20 in the Azgar Ali Chawl at Kalina. It is now argued that this was earlier known as the Collectors' Chawl and the name is subsequently changed. There is no such averment in the Petition. There appears to have been no such argument before the Competent Authority. There was no such argument before the Grievance Redressal Committee.

6. The jurisdiction of this Court under Article 226 of the Constitution of India though wide in amplitude is not one that lends itself to a determination of disputed questions of fact of this nature. If the Petitioner himself takes constantly shifting stands and says different things at different times, then it is difficult to see how any interference is exercise of my writ jurisdiction can be justified. In the Petition itself I find in paragraph 3 that there is extensive reliance on the draft Annexure-II. It is now however argued that there are

possible errors in this draft Annexure-II. Reliance is also placed on a map at page 15 of the compilation to show that plots marked 29 and 62 were independent structures. Whether they were or they were not is surely irrelevant for the Petitioner is unable to show that he is any right in respect of either of these structures. The draft Annexure-II prepared by the society and the developer on which so much reliance is placed shows the name of the Petitioner's brother against the structure and his father against another. By no stretch of the imagination can this be said to create any rights in favour of the Petitioner.

7. There is no substance to the Petition. It is dismissed. there will be no order as to costs.

8. The Petitioner is present in Court. Mr Kanojiya makes a statement on instructions from the Petitioner that possession will be handed over to Respondent No. 2 by 5.00 p.m. on 30th January 2018. The statement is accepted as undertaking to the Court.

(G. S. PATEL, J)