

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO.76 OF 2018

Izharulhaq Aullahak Imityaz Sidhiqui & Ors.	...Petitioners
<i>Versus</i>	
The State of Maharashtra & Ors	...Respondents

Mr Nilesh Masurkar, *for the Petitioners.*
Mr Amit Shashtri, AGP, *for Respondent No.1-State.*
Mr RM Pandey, *for Respondent No.3-Builder.*

CORAM: G.S. PATEL, J
DATED: 15th January 2018

PC:-

1. The Petitioners impugn an order of the Grievance Redressal Committee (“GRC”) under the Slum Act. A copy of this order, dated 21st November 2017, is at Exhibit “I” from page 827 onwards.

2. The Petitioners’ case, briefly stated, is that CTS Nos. 572/1 to 572/15 of Village Makarani Pada falls outside the declared slum area and is, therefore, not part of the Slum Rehabilitation Scheme. I find on a careful consideration of the record that there was initially a declaration that was cancelled but this was followed by a re-declaration of 1984. The GRC has found as a matter of fact that the re-declaration that was published in the Gazette covers these relevant CTS numbers. This Notification was challenged by the

Petitioners unsuccessfully all the way to the Supreme Court. The very same argument is now being raised again before me. Attention is drawn to sketch plans, pages 818 and 819, and I am asked to conclude on the basis of these drawings obtained under Rights to Information Act (“RTI”) that the Petitioners’ structures were included in the SRA Scheme at a later date. This is on the face of it complete misdirection. The Petitioner No.1 was present in 2006 when the area was surveyed. He signed the relevant Annexure-II. This was placed before the GRC. The GRC found that at Sr. Nos. 428(a) the name of the first Petitioner appears and there is his signature against that name. Not just that, but the Petitioner No.1 also executed an agreement for permanent alternate accommodation in 2006. A copy of that it too was before the GRC. Eight years later, in 2014, there was a biometric survey and videography and even at this the first Petitioner participated. He also accepted a cheque of Rs. 1,10,000/- for compensation for temporary accommodation. It seems that the Petitioner No.1 was thereafter declared ineligible and then canvassed before the Competent Authority his case that he ought to have been found eligible. Failing that, the argument now taken is that the land beneath his structure was never part of the declared Slum Scheme.

3. The Developer and the 1st Respondent are correct in saying therefore that by having been participated in surveys at least Petitioner No.1 has accepted the correctness of the inclusion of the CTS numbers in the declared SRA Scheme. The Letter of Intent, the Intimation of Approval and the Commencement Certificate are for a composite building and one rehabilitation building. Construction is going on. Part of the 23-storied building is

complete. Internal work is being completed and several hundred slum dwellers have granted consent.

4. It also appears that one Dost Mohammad claimed to be the owner of these very CTS numbers and he filed Writ Petition No.486 of 2016 in this Court. Notices were ordered to be issued to all these Petitioners. That Writ Petition was dismissed. Thus there was no protection granted to these structures. It is this Alibakshi Dost Mohammad who appealed against the original slum declaration resulting in it being set aside and then a redeclaration in 1984 which included these CTS numbers once again. The very same Dost Mohammad filed another Appeal against the 1984 declaration. That Appeal failed. A Writ Petition and an SLP against that order were also dismissed. This is, in brief, the litigation history behind this Petition.

5. The GRC considered the case placed by the Petitioners and examined the documents. It came to the conclusion as a finding of fact that CTS Nos. 572/1 to 572/15 are part of what is declared as a slum and all challenges to that declaration have failed up to the Supreme Court.

6. This is very different from saying that the project is not being implemented in a proper manner or that there is inadequacy of rehab housing. This argument presumes that the CTS numbers in question are in fact part of the slum rehab scheme, for, otherwise, the submission of inadequacy of housing or the manner in which the rehab construction is going on is entirely irrelevant if the area itself

allegedly falls outside the Scheme. The Petitioners cannot have it both ways.. It appears that of the four Petitioners, only Petitioner No.3 has been found to be eligible. The other three are all ineligible. Having regard to these findings of fact, and also having due regard to the Petitioners' inability to demonstrate any facial perversity or illegality in the impugned GRC order, I must conclude that there is no substance to the Writ Petition. There is no warrant for interference by this Court in exercise of its Writ jurisdiction. The Writ Petition is rejected. There will be no order as to costs.

(G. S. PATEL, J)