

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION (L) NO.1132 OF 2018

Shri. Jagjit Singh S/o Late Kripal Singh & Ors. ... Petitioners

Versus

Apex Grievance Redressal Committee & Ors. Respondents

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Mr. Altaf Khan I/b Mr. Ashif Husain & Mr. Nitesh Acharya for the Petitioners.

Ms. Pooja Yadav for Respondent No.2-MCGM.

Mr. Saurabh Kurade I/b Mr. Vijay Patil for Respondent No.3-SRA.

Mr. M. A. Sayyed, AGP for Respondent No.4 and 8.

Mr. Madhur Surana for Respondent No.7.

Mr. Anil Pawar, Colony Officer, F/N Ward, present.

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CORAM : S.C.GUPTE, J.

DATE : 4 APRIL 2018

P.C. :

1. Not on board. Upon mentioning taken on production board.
2. Heard learned Counsel for the parties.
3. This petition challenges an order passed by Apex Grievance Redressal Committee on 21 February 2018. By the impugned order, the Apex Grievance Redressal Committee rejected the Petitioners application upholding the impugned order dated 8 June 2017 passed by the Additional Collector and Appellate Authority, Mumbai City and order dated 23 January 2017, passed by Assistant Commissioner, F/N Ward, MCGM. The

dispute concerns eligibility of the Petitioners as slum dwellers, to receive alternative accommodation in the rehabilitation scheme. The Petitioners are members of Respondent No.6-Society.

4. By an order dated 23 January 2017 passed by the Competent Authority, the Petitioners' eviction from their premises and demolition of their structures were ordered. By an order dated 8 June 2017, the Additional Collector and first Appellate Authority confirmed that order. These orders were further confirmed by the Grievance Redressaal Committee. The orders were passed under Section 36 and 38 of the Maharashtra Slum Areas Act, 1971. These orders are in challenge before the Court. The grievance of the Petitioners is that whilst they are ready to vacate the premises, individual agreements must be executed with them *inter alia* incorporating the time for providing rehab units in the new redevelopment building and payment of transit rent as per law. The Petitioners submit that a suitable provision must also be made in these individual agreements providing for eligible carpet area of rehab units based on fungible area utilized in the construction. The Petitioners are entitled to individual agreement and Respondent No.7-Developer is agreeable to enter into such agreements providing for the time schedule as also payment of transit rent and all other terms as have been agreed to with other eligible slum dwellers. Learned Counsel for Respondent No.7 submits that there is no question of providing any additional carpet area in lieu of fungible area utilized by the developer in these agreements.

5. The question of inclusion of any of fungible area in the eligible carpet area of rehab units is not a matter which can be considered within

the framework of Section 36 and 38 of the Maharashtra Slum Areas Act. If the Petitioners do not get what they are entitled in law and are aggrieved, they may have to choose an appropriate remedy. As far as time for provision of rehab units and payment of transit rent are concerned, the Petitioners will have individual agreements in place providing for these matters as in the case of other eligible slum dwellers.

6. Learned Counsel for Respondent No.7 hands over eight cheques towards rent of 12 months. These cheques are accepted by learned Counsel for the Petitioners without prejudice to the rights and contentions of his clients.

7. The application of Petitioner No.3 under Section 35 is pending before the Competent Authority for his eligibility for alternate accommodation in the redeveloped building. Learned Counsel for Respondent No.7 undertakes to the Court, on instructions from his client, that in case Petitioner No.3 is held to be eligible, all benefits which are made available to eligible slum dwellers shall be made available to him. The Competent Authority, namely, Assistant Commissioner, Municipal Corporation, F/N Ward, shall dispose of the application of Petitioner No.3 within a period of four weeks of Petitioner No.3 making final submission of all his documents in support of his case.

8. The Petitioners propose to vacate their respective hutments within two weeks from today. No coercive steps shall be taken against them in the meanwhile. The Petitioners undertake to the Court that at the end of the two weeks' period granted by this Court, they will vacate the premises

on their own and hand over peaceful possession to Respondent No.7. The undertaking is accepted.

9. The Petition is disposed of in terms of the above order.

(S.C.GUPTE, J.)