

Atul

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 2893 OF 2017

Baby Babu Poojari	...Petitioner
<i>Versus</i>	
Chief Executive Officer, MIDC & Ors	...Respondents

Mr Mayur Khandeparkar, *with Arun Panikar, & Manish Gala, i/b Law Square, for the Petitioner.*

Mr Prashant Chavan, *with Navdeep Vora, i/b Navdeep Vora & Associates, for Respondents Nos. 1 and 3.*

Mr AR Mishra, *for Respondent No. 4.*

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

PC:-

1. The Petitioner is the widow of one Babu Poojari. He died on 26th March 2014. They were living in Room No. 256 of about 150 sq ft in Bhim Nagar Zhopadpatti. The case is straightforward. The Petitioner says that she, her husband and her family were staying in this premises prior to 1985. They are owned by Maharashtra Industrial Development Corporation (“MIDC”). It decided to redevelop the property under Development Control Regulation 33(10). The MIDC authorities prepared a statement in Annexure-II. The Petitioner’s husband was declared to be ineligible. The Petitioner and her family went to their village in May 2007. When they returned in July 2008 they found that the hut had been demolished. The case is that there was no order of eviction under

Section 33 of the Maharashtra Slum Areas (Clearance, Improvement and Redevelopment) Act 1971 nor any hearing.

2. The Petitioner's husband Babu Poojari filed Suit No. 55 of 2008 in the City Civil Court and filed a Notice of Motion in that Suit to which the MIDC responded again alleging that the Petitioner and her husband were not eligible. The Suit was dismissed.

3. In the meantime, MIDC sanctioned the slum scheme. Babu Poojari died on 26th March 2014. The 4th Respondent Developer has partly reconstructed the rehab buildings. Thereafter, the Petitioner made enquiries under the Right to Information Act 2005 and found that the Respondent No. 5, one Suresh Pandurang Madle, has been shown to be the allottee of Flat No. A-406, Rehab Building No. 8, Pocket No. 5 as a transferee of the Petitioner's late husband Babu Poojari.

4. Babu Poojari did not at any point transfer his premises to the 5th Respondent in his lifetime. It is unknown on what basis Respondent No. 5 is shown as transferee. Despite being given sufficient time MIDC is unable to point to any proper transfer documents. It appears that the name of the 5th Respondent has been directly entered into the Annexure-II as a transferee of Babu Poojari and shown against structure/room bearing No. 256 which was in the name of the Petitioner's husband Babu Poojari.

5. It is quite incomprehensible how the 5th Respondent could be shown to be a transferee of the Petitioner's husband and, simultaneously, the MIDC could contend that the Petitioner and her

husband were ineligible. A transferee of an ineligible person cannot possibly get eligibility in this fashion.

6. On this limited ground, the Petitioner is entitled to succeed. The Respondent No. 5 has filed no return despite service. The builder is not concerned who is found eligible.

7. MIDC will take necessary steps within eight weeks from today either to

(a) evict the 5th Respondent, obtain vacant possession, cancel the allotment and put the Petitioner in possession of Flat No. A-406, Rehab Building No. 8, Pocket No. 5; or

(b) As an alternative, offer the Petitioner alternative premises which, on Affidavit, are said to be available. Such an offer if made will not be refused by the Petitioner. This is a statement that Mr Khandeparkar for the Petitioner is instructed to make.

8. In case of any difficulty, liberty to the parties to apply.

9. The Writ Petition is disposed of in these terms. No costs.

(G. S. PATEL, J)