

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**APPEAL FROM ORDER (ST.) NO.304 OF 2019
WITH
CIVIL APPLICATION (ST.) NO.306 OF 2019
WITH
CIVIL APPLICATION (ST.) NO.309 OF 2019**

Suresh Subai Rajbhar ... Appellant
Vs.
Ashok Kumar Chaitar Rajbhar & ors. ... Respondents

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Mr. Anand Harminder Singh for the Appellant.
Mrs. Madhuri More for M.C.G.M./Respondent.
Mr. Rajesh Singh a/w. Mr. Manish Singh for Respondent No.1.
Deepa Bisht I/b. Mr. Tushar Goradia for respondent No.3.
Mr. Abhijit Desai for Respondent No.5.

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CORAM : M. S. KARNIK, J.

DATE : 24th JULY, 2019.

P. C.:

1. Heard learned counsel for the appellant.
2. The appellant by this Appeal has challenged the order dated 5.10.2018 passed by the City Civil Court, Mumbai in Notice of Motion No.2884 of 2018. The Notice of Motion is filed by the appellant to stay the order passed by defendant No.6 on 11.02.2017 and 12.10.2017, whereby it was held that defendant No.1 was eligible for benefits of redevelopment scheme under the

Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (hereinafter referred to as 'the said Act' for short) and also directed defendant No.3 to pay monthly compensation to defendant No.1 and for further direction to defendant No.3 to deposit the same amount in the Court.

3. Learned counsel for the appellant would submit that by virtue of an agreement of sale dated 17.1.2001 and other documents in the nature of general power of attorney executed by Manjiri wife of late Chetan Rajbhar, the affidavit dated 17.1.2001, the possession of the room was handed over to the plaintiff. He stayed in the suit premises till 2014. The said premises came to be demolished under the S.R.A. Scheme.

4. According to the learned counsel for the appellant the respondent No.6 -Joint Registrar of Co-operative Society, S.R.A. held respondent No.1-original defendant No.1 to be eligible for the benefits under the said scheme and included his name in Annexure II. According to learned counsel for the appellant the only remedy for the appellant to challenge the order passed by

respondent No.6 is to file a suit before the City Civil Court. Notice of Motion is filed in the said notice for staying the order passed by respondent No.6.

5. The order passed by the respondent No.6 is under the provisions of Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971. Section 42 of the said Act provides that no civil court shall have jurisdiction in respect of any matter which the Administrator, Competent Authority or Tribunal is empowered by or under this Act, to determine; and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

6. In this view of the matter, if the Trial Court came to the conclusion that it is not possible to entertain the Notice of Motion made by the appellant for staying the order passed by respondent No.6 as the same is rejected in exercise of respondent No.6's powers under the provisions of the said Act, I see no reason to interfere with the said order in the light of provision of Section 42 of the said Act.

7. The Trial Court however to proceed with the suit on its own merits and in accordance with law. The Appeal From Order is dismissed.

8. In view of the dismissal of the Appeal From Order, nothing would survive for consideration in the Civil Applications. The Civil Applications are disposed of accordingly.

9. Considering the controversy involved the Trial Court is requested to consider if it is possible to expedite the suit.

(M. S. KARNIK, J.)