

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

WRIT PETITION NO. 2538 OF 2018

Kishan Aasharam Rote ... Petitioner
V/s.
The State of Maharashtra & Ors. ... Respondents

Mr. Ram Singh, for Petitioner.
Mr. S. D. Rayrikar, AGP, for Respondent No.1 to 3-State.
Mr. S. P. Thorat for Respondent No.4.
Mr. V. A. Singh for Respondent No.5.

**CORAM : A. S. GADKARI, J.
DATE : 10th JUNE, 2019.**

P.C.:-

1] By the present petition under Article 227 of the Constitution of India, the petitioner has impugned the concurrent findings recorded by both the authorities below.

2] Heard Mr.Singh, the learned counsel for the petitioner, Mr.Rayrikar, the learned AGP for respondent Nos.1 to 3, Mr.Thorat, the learned counsel for respondent No.4 and Mr.Singh, the learned counsel for respondent No.5. Perused the record.

3] The petitioner is claiming that, he was in possession of structure No.85 situated in Nagsen Co-operative Housing Society Ltd., Panchshil Nagar No.2, Amar Mahal, G.M. Road, Chembur, Mumbai.

The Additional Collector (ENC/REM), Eastern Suburbs, Mumbai, by its order dated 27/08/2015 has held that, the petitioner alongwith his aunt Smt. Mandabai Rote were staying in hut No.63. The said Smt. Mandabai Rote has been granted accommodation in rehabilitation scheme of the Marathwada SRA Co-operative Housing Society Limited. The Additional Collector (Enc/Rem.) has held that, in the Voters List published in the year 1995, it is mentioned that the petitioner and his aunt together were staying in the hut No.63 of part No.41 of the record. It is held that, there is no evidence on record to indicate that, the petitioner and his aunt were having independent structures. The Appellate Authority i.e. Grievance Redressal Committee, Mumbai Suburb, Mumbai, has turned down the Appeal No. 150 of 2017 preferred by the petitioner by its impugned Order dated 23/11/2017. The Appellate Authority has in detail discussed the evidence available on record.

4] As noted earlier there is concurrent findings recorded by both the Courts below. The Supreme Court in the case of Shalini S. Shetty Vs. Rajendra S. Patil reported in (2010) 8 SCC 329 held that High Courts cannot at the drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with

the orders of tribunals or courts interior to it. Nor can it, in exercise of this power, act as a court of appeal over the orders of the court or tribunal subordinate to it. That in exercise of its power of superintendence under Article 227 of the Constitution, the High Court cannot interfere to correct mere errors of law or fact or just because another view than the one taken by the tribunal or courts subordinate to it, is a possible view. The said view has been further affirmed by the larger Bench of the Supreme Court in the case of Radhey Sham & Anr. Chhabi Nath & Ors. Reported in (2015) 5 SCC 423.

5] The record indicates that, there is no substance in the contention of the petitioner that, he was in possession of structure No.85 in the Nagsen Co-operative Housing Society Ltd. After perusing entire material available on record, this Court is of the view that, both the authorities below have not committed any error, either in law or on facts while passing the impugned orders.

 The petition is being de hors of merits, is accordingly rejected.

(A.S. GADKARI, J.)