

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

WRIT PETITION NO.1227 OF 2019

Smt. Lata Vishnu Sawant and Ors.	...Petitioners
Versus	
Additional Collector and Appellate Authority and Ors.	...Respondents

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Mr. Balasaheb R. Deshmukh for the Petitioners.
Mr. Sachin Kankal, AGP for the Respondent No.1.
Mr. Santosh Parad for the Respondent No.2-MCGM.
Mr. Pravin K. Samdhani, senior Advocate, Mr. Nitesh Ranawat and Ms
Disha Shetty i/b. M/s. Wadia and Ghandy and Co. for the Respondent
No.4.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 30th JANUARY, 2019.

P.C.:-

With consent heard finally at the stage of admission.

2. The Petitioners herein had moved this petition for urgent circulation on a holiday alleging that the structures of the slum dwellers were being demolished during the pendency of the appeal. It was stated that the Appellate Authority had orally declined to grant stay and hence the Petitioners were constrained to approach the High Court on a holiday. It was under these circumstances that the Petition was entertained on a holiday and ad-interim relief was granted

directing the parties to maintain status-quo till the next date i.e. 28.1.2019.

3. On 28.1.2019 Mr. Samdhani, the learned senior counsel for the Respondent No.4 stated that ad-interim relief was obtained by suppressing the material facts. Hence, the matter was listed today for hearing.

4. The Petitioners herein have challenged the notice dated 23.1.2019 whereby the Respondent No.2-Competent Authority directed the Petitioners to vacate the premises within 48 hours, failing which they would be evicted on 28.1.2019. The Petitioners filed an appeal before the Respondent No.1- Additional Collector. The Petitioners had approached this court alleging that the Additional Collector had orally declined to grant the stay. The ground of challenge in the appeal before the Additional Collector as well as in the present petition is that the Competent Authority had no jurisdiction to issue the impugned notice in view of the circular dated 3.4.2018 issued by the State of Maharashtra.

5. In the course of hearing, Mr. Deshmukh, the learned

counsel for the Petitioners submits that the Petitioners were issued show cause notice dated 25.1.2016 under Sections 33, 33A and 38 of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971. They were served with a notice and after considering the reply filed by the Petitioners eviction order was passed on 2.6.2016. The appeal was dismissed on 29.5.2017 and revision application No.49 of 2017 was dismissed by the Grievance Redressal Committee on 31.3.2018. He concedes that the Petitioners have not challenged the order of the Grievance Redressal Committee and as a consequence thereof the eviction order has attained finality.

6. The impugned notice was issued only after the challenge to the eviction order was rejected and the order of eviction had attained finality. It is pertinent to note that the Petitioners have challenged the notice without disclosing these material facts -viz. issuance of show cause notice or passing of eviction order as well as dismissal of appeal and revision by the concerned authority either in the appeal before the Collector or in the present petition.

7. The Petitioners have filed the petition alleging that the action proposed by impugned order/notice is contrary to the circular

dated 3.4.2018. Shri Samdhani, the learned senior counsel for the Respondent No.4 submits that this circular has been superseded by the circulars dated 8th August, 2018 and 15th November, 2018 and a reference to these circulars was made in the impugned notice. It is thus, evident that the Petitioners have 'obtained' ad-interim relief by suppression of material facts and by misleading the Court. The Petitioners have thus abused the process of court.

8. A writ remedy being equitable one, the person invoking writ jurisdiction has to come with clean hands. In the instant case the Petitioners having approached the Court with unclean hands are not entitled for any equitable relief. The conduct of the Petitioners needs to be deprecated. The Petitioners need to be reminded that the court proceedings are sacrosanct and cannot be allowed to be polluted by unscrupulous and dishonest litigants. Such unscrupulous and dishonest litigation and attempt to abuse the legal process can only be discouraged by imposing exemplary costs.

9. Under the circumstances, the writ petition is dismissed with costs of Rs.2,00,000/-. The costs shall be deposited in the registry of this court within a period of two months from the date of the order. In

the event the Petitioners fail to pay the costs within the stipulated period of two months, the Registrar (Judicial) shall forward a copy of this order to the Collector with directions to recover the costs as arrears of land revenue.

(SMT. ANUJA PRABHUDESSAI, J.)