

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

**CIVIL APPLICATION NO.1422 OF 2012
IN
FIRST APPEAL NO.1469 OF 2012**

Kurla Nehru Nagar Angoli Mala Co-
operative Housing Society

...Applicant/Appellant

Versus

Ramkrishna Baldev Giri since
deceased through his heirs and LRs-
1(a) Smt. Anusaya Ramkrishna Giri
and Ors.

...Respondents

.....

Mr. R.K. Mendadkar with Mr. Shrishail Sakhare I/b. Mr. S.G. Surana
for the Applicant.

Ms Krianti S.S. Anand for the Respondent Nos.1(a) to 1(c).

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED: 1st MARCH, 2019.**

P.C.:-

. At the outset the learned counsel for the applicant / appellant seeks leave to amend the prayer clause (c) wherein number of rehab tenement No.B-403 is typed instead of B-704. The learned counsel for the Respondents objects to the said amendment on the ground of delay.

2. It is not in dispute that the subject matter of the suit is tenement No.B-704. The applicant has only sought to rectify a typographical error. Such amendment cannot be rejected on the ground of delay. The error is only a typographical error and cannot be rejected solely on

the ground of delay. Objection is *sans merit*. Hence, leave granted. Amendment to be carried out forthwith.

3. The dispute in the present case is in respect of tenement No.B-704. One Shri Ramkrishna Baldevgiri, predecessor of Respondent No.1(A) to 1(C) had filed a suit claiming to be the owner and occupier of the suit premises. He had further stated that he is a bonafide member of the Appellant society and eligible and protected slum dweller. His name has been entered in annexure -II. The grievance of the Plaintiff was that the suit property went for redevelopment under Slum Rehabilitation Scheme and the Defendant Nos.3 and 4 with an intention of depriving him of temporary alternate accommodation illegally threatened to demolish the structure and to dispossess him without allotting temporary alternate accommodation. The Plaintiff claims that he is eligible for permanent alternate accommodation in lieu of old premises.

4. By the impugned order dated 21/1/2012 the Trial Court has directed the Appellant (hereinafter referred to as “Defendant”) to handover possession of the suit premises to Ramkrishna Baldevgiri-predecessor of the Respondent (hereinafter referred to as “Plaintiff”).

5. The learned counsel for the appellant submits that in terms of section 42 of the Slum Rehabilitation Act, 1995, the Civil Court had no jurisdiction to entertain the suit in respect of any matter which the Appellate/ Competent or Grievance Redressal Committee was empowered to determine. He submits that since the dispute is basically in respect of the structure, which was to be developed under slum rehabilitation scheme, the dispute in respect of the same ought to have been raised before the competent authority under SRA.

6. Considering the nature of relief granted and the grounds raised in the appeal, in my considered view, the execution of the impugned judgment is required to be stayed. Hence, the execution of the impugned judgment is stayed till the disposal of the appeal.

7. Considering the narrow controversy involved in the appeal, hearing of the appeal is expedited. To be listed for final hearing in the 2nd week of July, 2019.

8. Civil application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)