

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4699 OF 2019

Mr. Santosh Patiraj Yadav .. Petitioner.
V/s.
State of Maharashtra through
the Govt. Pleader and Ors. .. Respondents.

WITH
WRIT PETITION NO. 4691 OF 2019

Mr. Brijesh Patiraj Yadav .. Petitioner.
V/s.
State of Maharashtra through
the Govt. Pleader and Ors. .. Respondents.

WITH
WRIT PETITION NO. 5667 OF 2019

Smt. Hiravati Patiraj Yadav .. Petitioner.
V/s.
State of Maharashtra through
the Govt. Pleader and Ors. .. Respondents.

Mr. R.A. Thorat, Senior Advocate I/b Pratibha Shelake for the
petitioner in all petitions.

Mr. Shikur G. Kudale, for respondent no. 5.

Mr. P. P. Pujari, AGP for respondent nos. 1 to 3.

CORAM: NITIN W.SAMBRE, J.

DATE : JUNE 17, 2019.

P.C.:-

These three petitions can be conveniently disposed of by this common order.

2 The Chief Executive Officer of Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (for short “SRA” Act) by order dated April 11, 2016 directed the complaint preferred by the respondent to be treated as an Appeal u/sec. 35 of the SRA Act, and also directed an enquiry in the matter as regards entitlement of the petitioners, for the benefit under the SRA scheme.

3 The present petitioners being aggrieved by the aforesaid order before the Grievance Redressal Committee preferred an application stating that the enquiry which is ordered be stayed. The aforesaid proceeding taken out in the appeal against the order of the Chief Executive Officer dated April 11, 2016 whereby enquiry was ordered.

4 By the order impugned dated March 14, 2019 the Grievance Redressal Committee refused to stay the enquiry. As such, this petition.

5 The submissions of learned counsel for petitioners is, section 35 of SRA does not provide for an appeal at the behest of the complainant like the respondent. According to him, the person interested on whom right of appeal is conferred as referred to in Section 35 of SRA by no stretch of imagination can include the authority like respondents, who is authorized to entertain such appeal. He would also rely upon the language of section 35 of SRA to claim that appeal thereunder is not maintainable. That being so, enquiry order against the persons/ beneficiaries like the petitioners, is liable to be stayed.

6 *Per contra*, the learned AGP and Shri. Kudale, the learned counsel for the complainant would support the order, as according to them, the aforesaid issue is raised at premature stage. According to them, it is too early to comment on the very maintainability of the appeal. According to them, if issue raised before the Grievance

Redressal Cell about validity of such enquiry, the petitioners will get appropriate opportunity of hearing. Hence, dismissal is sought.

7 Considered the rival submissions.

8 By the order impugned, the Grievance Redressal Committee has refused to stay the enquiry. The said order came to be passed in appeal preferred by the petitioners against the order of enquiry and treating the complaint of the respondent as an appeal.

9 The appeal is very much pending for hearing on merit and during pendency of such appeal, the petitioners have sought stay to the enquiry.

10 The learned counsel for respondent so also learned AGP, in my opinion, are right in pointing out that in the enquiry as ordered, if any adverse material is noticed, and if further proceeding against the petitioner based on the same are initiated, an opportunity of hearing to petitioners will be offered at an appropriate stage.

11 Apart from above, whether the appeal is maintainable or not at the behest of respondents/complainant and whether enquiry

should have been ordered or not, can be gone into by the appellate forum i.e. Grievance Redressal Committee.

12 As such, without commenting on scope of section 35 of the SRA, this Court fit it appropriate to dispose of the petition with liberty to canvas the aforesaid issue in the appeal which are pending before the Grievance Redressal Committee at the time of final hearing.

13 With above observations, petitions stand disposed of.

(NITIN W.SAMBRE, J.)