

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

WRIT PETITION NO. 12134 OF 2019

Raghunath Bhagoji Shinde

... Petitioner.

V/s.

1. Deputy Collector (Eastern Suburbs),
SRA & Others.

... Respondents.

Mr. Pradeep Thorat, Advocate, a/w. Prayag Joshi and
Uttam Rane i/by B. J. Joshi for the Petitioner.

Mr. Milind More, Advocate for Respondent No. 1 – SRA.

Mr. S.G.Surana, Advocate i/by M.S. Surana for
Respondent No. 2.

Mr. A.B. Kadam, AGP for Respondent No. 4.

CORAM : UJJAL BHUYAN, J.

DATE : NOVEMBER 27, 2019.

PC :

1 Heard Mr. Pradeep Thorat, learned counsel
i/by Mr. B.J.Joshi, learned counsel for the Petitioner; Mr.
Milind More, learned counsel for Respondent No.1
(SRA); Mr. S.G. Surana, learned counsel for Respondent
No.2 and Mr. A.B.Kadam, learned AGP for Respondent
No. 4- State.

2 By filing this petition under Article 227 of the
Constitution of India, Petitioner seeks quashing of

order dated 25.10.2019 passed by the Apex Grievance Redressal Committee in Application (L) No. 276 of 2018 filed by the Petitioner.

3 According to the Petitioner, he is the original slum dweller in respect of 7 structures situated at CTS No. 385, Shivaji Nagar (Chembur) SRA Co-operative Housing Society Limited at serial nos. 185, 186, 187, 188, 189, 222 and 223. According to the Petitioner, he has been carrying on hotel business in the said seven shops under the name and style of "Hotel Roma" by obtaining licence from the Municipal Corporation. It is the case of the Petitioner that the seven structures are adjacent to each other.

4 Respondent No.2 had entered into Memorandum of Understanding (MOU) with the Petitioner whereby and where-under the Petitioner was assured commercial area on the ground floor equivalent to the existing commercial area of about 852 square feet carpet area in the SRA building, adjacent to each other.

5 However, Respondent No. 2 handed over only five structures in the newly constructed building

to the Petitioner, three on the ground floor and two on the first floor.

6 According to the Petitioner, allotment of only five commercial structures - three on the ground floor and two on the first floor would adversely affect his business, besides being violation of the MOU.

7 With this grievance, Petitioner filed an application before the High Power Committee, which was rejected. Thereafter, an appeal was filed before the Apex Grievance Redressal Committee, which was also rejected by the impugned order dated 25.10.2019.

8 Stand taken by the Developer i.e. Respondent No. 2 is that there were altogether 69 occupants of commercial premises but Respondent No. 2 could not construct equal number of commercial tenements on the ground floor and hence tentative plan was submitted to SRA. In the said plan, five shops for the Petitioner were earmarked - three on the ground floor and two on the first floor. The plan had the approval of the SRA, where-after construction was commenced.

8.1 On a query by the court, it is clarified by learned counsel for Respondent No. 2 that two more tenements, total seven, have been allotted to the Petitioner.

9 Though the Apex Grievance Redressal Committee had, to a certain extent, relied upon the report dated 19.07.2019 submitted by the SRA, after conclusion of the hearing which according to the Petitioner was without furnishing copy to him, needless to say that the report by itself would hardly make any material difference about the final conclusion arrived at by the Apex Grievance Redressal Committee. Entitlement of the Petitioner is only to rehabilitation under Regulation 33(10) of the Development Control Regulations.

10 In the course of the arguments it has transpired that the Petitioner had already accepted the five tenements.

11 In the circumstances, when seven tenements have already been allotted to the Petitioner and five of which have been accepted by the Petitioner, court is not inclined to interfere with the matter since the Petitioner has been rehabilitated.

12 Accordingly, court finds no merit in the Writ Petition, which is dismissed.

13 Petitioner to vacate the remaining two old structures/ shops within 48 hours.

(UJJAL BHUYAN, J.)

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