

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

WRIT PETITION (ST.) NO. 37398 OF 2018

Dharmabai Sitaram Yadav

....Petitioner

V/s.

The Apex Grievance Redressal Committee,
Slum Rehabilitation Authority & Ors.

....Respondents

Mr. Y.D. Patil and Ms. Neha Parte for the petitioner.

Mr. G.W. Mattos for respondent no.1.

Mr. Mohan Sinh Rajput, Ms. Krishna Patel and

Ms. Sana Kudapali i/b. Kshitija Wadatkarn for R.Nos.2 and 3.

Mr. Ashish Kamath, Mr. Subir Kumar a/w. Mr. Sagar Shetty
i/b. Subir Kumar for respondent nos.4 and 5.

**CORAM: SMT. ANUJA PRABHUDESSAI, J.
DATED : 03RD JANUARY, 2019.**

P.C.:

. Heard the learned counsel for the respective parties.

2. By this petition under Article 227 of the Constitution of India, the petitioner has challenged the order dated 28/11/2018 passed by the respondent no.3 – The Deputy Collector, Slum Rehabilitation Authority, Western Suburb, Mumbai in proceedings under Section 33 and 38 of Slum Areas (Improvement, Clearance and Re-development) Act, 1971.

3. The petitioner had earlier challenged this order in Writ Petition

No.13750/2018. The said petition was disposed of by order dated 14/12/2018 wherein this Court has observed as under :-

“8. With the assistance of the learned Counsel for the parties, I have perused the material on record. Prima facie, a perusal of final Annexure-II prepared by Deputy Collector (Encroachment/Removal), Competent Authority, Bandra shows that a survey was carried out on 12th June, 2018 in respect of CTS No.632 Part. The petitioner's name is at Sr. No.226. She was found ineligible on the ground that she did not submit documents showing commercial user prior to 1st January, 1995. That apart, she did not permit survey of her structure as also site inspection. She opposed implementation of the scheme. No material is produced by the petitioner to prima facie substantiate her claim that her structure is situate in CTS No.633. CTS plan produced during the course of hearing, prima facie, does not indicate that the structure shown in CTS No.633 belongs to the petitioner.

9. In view thereof, it is not possible to accede to the request made by the petitioner, not to take coercive steps in pursuance of the impugned order. Subject to above, the Petition fails and the same is dismissed. It is made clear that the Appellate Authorities will decide the appeals uninfluenced by the observations made in this order which are prima facie and tentative. The Appellate Authority to decide appeals on the basis of the material on record and in accordance with law. Order accordingly. ”

4. The petitioner was thereafter served with a notice dated 26/12/2018 to vacate the premises within 48 hours from the date of receipt of the said notice. On receipt of the said notice, the petitioner filed an appeal before the Appellate Authority. It is seen that the Appellant had not filed any stay application alongwith the appeal

memo. The learned counsel for the petitioner submits that the Appellate Authority has refused to accept the stay application which statement is disputed by the learned counsel for the respondent no.2 and 3.

5. Be that as it may, in the light of observations made by this court in paragraph nos.8 and 9 of order dated 14/12/2018, I am not inclined to grant an interim relief. It is reported that the Apex Grievance Redressal Committee is scheduled to meet on 11/01/2019. The learned counsel for the petitioner undertakes to file the stay application / application for interim relief before the Apex Grievance Redressal Committee (AGRC) – respondent no.1 on 07/01/2019 by furnishing copies to all the concerned parties. She further submits that the petitioner will file a praecipe before the AGRC for urgent hearing of the stay application / application for interim relief. The learned counsel for the respondents submit that subject to receipt of the copy of the stay application on 07/01/2019, they will appear before the AGRC on 11/01/2019.

6. In the light of the above statements and in the event stay application is filed on or before 07/01/2019, the AGRC shall hear the

parties on the prayer for ad-interim relief on 11/01/2019, on its own merits.

7. Writ Petition stands disposed of in above terms.

(SMT. ANUJA PRABHUDESSAI, J.)