

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION (L) NO. 955 OF 2019

Bhagwan Khushiram Kurseja

...Petitioner

vs

The Apex Grievance Redressal Committee & Ors. ...Respondents

Mr.H.S. Anand for Petitioner.

Mr.Anupam Dighe with Kiran Padalkar I/b. India Law Alliance for Respondent No.4.

Mr.Girish Utangale with Chetan Mhatre I/b. Utangale & Co. for Respondent No.5 (MHADA).

CORAM : S.C.GUPTE, J.

DATE : 26 MARCH 2019

P.C. :

This writ petition challenges an order of Apex Grievance Redressal Committee passed on 16 March 2019 refusing to stay the execution of the order dated 6 March 2019 passed by the Deputy Collector under Sections 33 and 38 of Maharashtra Slum Areas (Improvement, Clearance and Development) Act, 1971 ("Slum Act"). The Petitioner claims to be a lawful occupant of a structure forming part of a rehabilitation scheme under DCR 33(10). It is not in dispute that the Petitioner's name does not figure in Annexure-II. The Petitioner's case is that he has already made a representation before the Chief Officer of MHADA and produced even documents in support of his case of eligibility. The Petitioner submits that the Chief Officer of MHADA has not taken any decision on his representation. So far as his eviction is concerned, an appeal from the order of the Deputy Collector passed under Sections 33 and 38 of the Slum Act is pending before the Apex Redressal Grievance Committee. Learned

Counsel for the Petitioner submits that committee has not taken any decision on that, but there is no stay granted by the Redressal Committee pending his appeal.

2 Learned Counsel appearing for MHADA states that the Chief Officer of MHADA shall take an appropriate decision on the Petitioner's representation regarding his eligibility within a period of eight weeks from today. This statement is accepted. The Petitioner shall be at liberty to file such further documents before the Chief Officer, MHADA in support of his application for eligibility, as he may be advised. Any such filing must be completed within a period of two weeks from today.

3 Whether or not the Petitioner's claim of eligibility is accepted by the Chief Officer, MHADA, the Petitioner has no right to hold on to his structure. Learned Counsel for Respondent No.4 developer submits that out of 184 occupants in the scheme, 183 have already surrendered possession of their respective premises and the Petitioner is the only person who is holding on to his structure and obstructing the scheme. This obviously cannot be permitted. Learned Counsel for Respondent No.4 submits that his client is agreeable to deposit with SRA an appropriate sum representing the transit rent payable to the Petitioner in case eligibility is considered in his favour by the Chief Officer of MHADA. Learned Counsel submits that his client is also agreeable to make a provision for a suitable permanent alternative accommodation in lieu of the structure claimed by the Petitioner in the new building proposed to be constructed by his client at site and handover the same to the Petitioner, if the Petitioner succeeds in his application for eligibility before the Chief Officer of MHADA.

4 In view of these statements, which are accepted by the court, learned Counsel for the Petitioner does not press his petition. Learned Counsel submits and undertakes to the court, after taking instructions from the Petitioner, who is present in person in court, that his client shall vacate the structure and surrender its vacant possession to Respondent No.3 within four weeks from today. This statement is accepted and the petition is disposed of as withdrawn.

(S.C. GUPTE, J.)