

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****WRIT PETITION (L) NO. 2313 OF 2019****Nawaz Vakil Khan****..... Petitioner****VERSUS****The State of Maharashtra & Ors.****..... Respondents**

Mr. Omkar Khaiyam Shaikh for the Petitioner.

Mr.Sukanta Karmakar, A.G.P. for the State - Respondent nos.1 and 4.

Mr.Vijay D. Patil, a/w. Mr.Saurabh K. for the Respondent nos. 2 and 3.

Mr.P.K.Dhakephalkar, Senior Advocate, a/w. Mr.Chirag Balsara,
Mr.P.J.Thorat for the Respondent nos. 5 and 6.**CORAM : R.D. DHANUKA, J.****DATE : 22nd and 23rd AUGUST, 2019****P.C.**

By this petition filed under Article 226 of the Constitution of India, the petitioner has impugned the order dated 25th July, 2018 passed by the Apex Grievance Redressal Committee, Government of Maharashtra in Application filed by the petitioner *inter alia* praying for quashing and set aside the letter dated 25th July, 2018 by SRA.

2. Mr. Shaikh, learned counsel appearing for the petitioner invited my attention to the impugned order at Ex.A to the petition and also Rule 7 of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 and notification dated 8th March, 2017 issued by the Housing Department of the State Government and would

submit that the scope of the powers of the committee is defined under the said notification and more particularly in Column 'D' thereof which includes the issue not specifically assigned to other Grievance Redressal Committee. He submits that similar application is already filed by one of the occupant before the Apex Grievance Redressal Committee which has been entertained. He submits that his client is not required to file any appeal against any order before the Apex Grievance Redressal Committee independently and thus the said committee could not have dismissed the application filed by the petitioner.

3. Under section 35(1A) of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971, any person aggrieved by any notice, order or direction issued or given by the competent authority may appeal to the appellate authority, who shall be a person holding a post not below the rank of Additional Collector. Rule 6 of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) (Grievance Redressal Committees) Rules, 2014 provides that every appeal shall be presented by the appellant or, as the case may be, by his lawyer, to the Registrar of the Grievances Redressal Committee and the mode and manner prescribed therein.

4. The notification dated 8th March, 2017 issued by the Housing Department provided the scope of the Apex Grievance Redressal Committee. It clearly provides that which orders can be impugned in the said appeal preferred under section 35(1A) of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971.

5. In my view, the Apex Grievance Redressal Committee has thus rightly rejected the said application being beyond the powers of the Apex Grievance Redressal Committee to entertain under section 35(1A) of the Slum Act and Rules framed under the said Act.

6. Though this court repeatedly called upon the learned counsel for the petitioner to demonstrate that the proceedings filed by the petitioner was in the nature of appeal or whether any appealable order was challenged before the Apex Grievance Redressal Committee under section 35(1A) read with rules and the notification issued by the Housing Department, learned counsel for the petitioner pressed this writ petition on the ground that his client was not bound to file any appeal before the Apex Grievance Redressal Committee.

7. In my view petition is thoroughly misconceived and no interference is warranted with the impugned order passed by the Apex Grievance Redressal Committee.

8. Writ petition is accordingly dismissed quantified at Rs.25,000/- (Rupees Twenty Five Thousand only) which shall be paid by the petitioner to the Kirtikar Law Library, High Court within one week from today.

[R.D.DHANUKA, J.]

P.C. DATE 23rd AUGUST, 2019

9. This matter was argued yesterday by the learned counsel appearing for the parties. After hearing the learned counsel for the parties, this Court dismissed the writ petition with costs quantified at Rs.25,000/-.

10. The matter was mentioned at 5.00 p.m. yesterday by Mr.Patil, learned counsel for the respondent nos.2 and 3. It was submitted by the learned counsel that the proceedings of this nature are numbered as application and not appeal by the Apex Grievance Redressal Committee. In view of this submission made by the learned counsel, matter was placed on board today for directions.

11. A perusal of the impugned order dated 25th July 2019 indicates that the said application even if considered as an appeal, is rejected on the ground that powers of the Apex Grievance Redressal Committee being appellate authority is to deal with the specific orders mentioned in the notification dated 8th March 2017 which is referred in the impugned order. It is further held in the said impugned order that letter dated 25th July 2018 was not an order passed by any concerned authority but was merely addressed by the Deputy Collector (Western Sub.) SRA to another Deputy Collector (Enc./Rem.), Andheri-1 & Competent Authority requesting to issue the Certified Annexure-II of slum dwellers situated on plot of land bearing CTS No.815 (Part) of Village & Taluka-Andheri, Mumbai for Rehmanbaug SRA CHS (P). The Apex Grievance Redressal Committee has thus rightly returned the said application as the same could not be entertained by the Apex Grievance Redressal Committee.

12. A perusal of the said communication dated 25th July 2018 clearly indicates that it was not in the nature of any appealable order. I am thus not inclined to recall the order passed on 22nd August 2019.

[R.D.DHANUKA, J.]