

psv

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

WRIT PETITION NO.2310 OF 2018

Lazoor Triza Joseph & Ors. ..Petitioners
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION NO.2276 OF 2018**

Manjarekar Sugandha Chandrakant & Ors. ..Petitioners
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION (L.) NO.2778 OF 2018**

Khan Noorjahan Mohammed Hanif ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION (L.) NO.2801 OF 2018**

Khan Idris Anis ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION (L.) NO.2802 OF 2018**

Wilson Enas Berges ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION (L.) NO.2804 OF 2018**

Farook Gulam Mohammed Shaikh ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION (L.) NO.2847 OF 2018**

Haroon Ismail Shaikh	..Petitioner
Vs.	
The State of Maharashtra & Ors.	..Respondents

**WITH
WRIT PETITION (L.) NO.2848 OF 2018**

Jaitoonbi Gafur Sayyed	..Petitioner
Vs.	
The State of Maharashtra & Ors.	..Respondents

**WITH
WRIT PETITION (L.) NO.2854 OF 2018**

Salma Bi Ibrahim Shaikh	..Petitioner
Vs.	
The State of Maharashtra & Ors.	..Respondents

**WITH
WRIT PETITION (L.) NO.2857 OF 2018**

Mohammed Aziz Guddu Shaikh	..Petitioner
Vs.	
The State of Maharashtra & Ors.	..Respondents

**WITH
WRIT PETITION (L.) NO.2859 OF 2018**

Ramanand Bi Sonkar	..Petitioner
Vs.	
The State of Maharashtra & Ors.	..Respondents

**WITH
WRIT PETITION (L.) NO.2869 OF 2018**

Mukhtar Ahmed Mohammed Hanif Ansari	..Petitioner
Vs.	
The State of Maharashtra & Ors.	..Respondents

WITH

WRIT PETITION (L.) NO.2957 OF 2018

Dattatray Dharma Patil ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION (L.) NO.2960 OF 2018**

Khan Asgar Ali Munawar ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION (L.) NO.2961 OF 2018**

Shaikh Shamimunnisa Basu ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION (L.) NO.3060 OF 2018**

Mohd.Farook Abdul Razzak Kazi ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION (L.) NO.3061 OF 2018**

Shaikh Mustaq Ismail ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION (L.) NO.3063 OF 2018**

Shaikh Shaukat Allahbaksh ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION (L.) NO.3064 OF 2018**

Khatunbi Nabi Khan ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION (L.) NO.3067 OF 2018**

Ajim Gafar Sayeed ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION (L.) NO.3114 OF 2018**

Mohammed Hanif Shaikh ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION (L.) NO.3115 OF 2018**

Mariam Sardar Ali Shaikh ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION (L.) NO.3116 OF 2018**

Michael Amoria ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION (L.) NO.3117 OF 2018**

Nasim Hanif Shaikh ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION (L.) NO.3118 OF 2018**

Kafil Ahmed Samani ..Petitioner
Vs.

The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION (L.) NO.3119 OF 2018**

Waseem Ahmed Hashmi ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION (L.) NO.3127 OF 2018**

Risaal Ahmed Hashmi ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION (L.) NO.3298 OF 2018**

Parvez Mohammed Shafi Shaikh & Ors. ..Petitioners
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION NO.3664 OF 2018**

Domnic Gabriel Fernandes ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION NO.3672 OF 2018**

Khawaja Mohinuddin Shaikh ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION NO.3679 OF 2018**

Shaikh Jbarkatullah Samiullah ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION NO.3682 OF 2018**

Khatoon B. Wali Ahmed Qureshi	..Petitioner
Vs.	
The State of Maharashtra & Ors.	..Respondents

**WITH
WRIT PETITION (L.) NO.4210 OF 2018**

Shaikh Abdul Kadar Rehaman & Ors.	..Petitioners
Vs.	
The State of Maharashtra & Ors.	..Respondents

**WITH
WRIT PETITION (L.) NO.4211 OF 2018**

Umesh Shantaram More & Anr.	..Petitioners
Vs.	
The State of Maharashtra & Ors.	..Respondents

**WITH
WRIT PETITION (L.) NO.4225 OF 2018**

Shanta Kishore Solanki & Ors.	..Petitioners
Vs.	
The State of Maharashtra & Ors.	..Respondents

**WITH
WRIT PETITION (L.) NO.4229 OF 2018**

Sabina Yasmin	..Petitioner
Vs.	
The State of Maharashtra & Ors.	..Respondents

**WITH
WRIT PETITION (L.) NO.4306 OF 2018**

Ibrahim Latif Kazi & Ors.	..Petitioners
Vs.	
The State of Maharashtra & Ors.	..Respondents

**WITH
WRIT PETITION NO.31 OF 2019**

Rocky D'Souza ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION NO.34 OF 2019**

Faiyaz Ifthekar Ahmed ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION NO.37 OF 2019**

Shaikh Ajimabi Ismail ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

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WRIT PETITION NO.39 OF 2019**

Muzwel Sibhav Fernandis ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION NO.65 OF 2019**

Mehboob Iddu Ansari ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION NO.66 OF 2019**

Safiuddin Kamruddin Shaikh ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION NO.67 OF 2019**

Nagin Chotu Rathod ..Petitioner

Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION NO.68 OF 2019**

Rafiq Ali Md. Siddique ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION NO.70 OF 2019**

Madhu Sadashiv Malvankar ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION NO.72 OF 2019**

Shaikh Safiya Babu ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION NO.78 OF 2019**

Aabeda Md. Iqbal Shaikh ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION NO.80 OF 2019**

Sadaphule Kalavati Bhimaji ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION NO.84 OF 2019**

Nazir Allahabaksh Shaikh ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION NO.96 OF 2019**

Yasmin Sayyed Bashir	..Petitioner
Vs.	
The State of Maharashtra & Ors.	..Respondents

**WITH
WRIT PETITION NO.133 OF 2019**

Sairunnisa Mohammed Hanif Ansari	..Petitioner
Vs.	
The State of Maharashtra & Ors.	..Respondents

**WITH
WRIT PETITION NO.136 OF 2019**

Arun Sadashiv Naik	..Petitioner
Vs.	
The State of Maharashtra & Ors.	..Respondents

**WITH
WRIT PETITION NO.158 OF 2019**

Khan Hashim Kadar	..Petitioner
Vs.	
The State of Maharashtra & Ors.	..Respondents

**WITH
WRIT PETITION NO.162 OF 2019**

Ansari Mehrunnissa Mehboob	..Petitioner
Vs.	
The State of Maharashtra & Ors.	..Respondents

**WITH
WRIT PETITION NO.163 OF 2019**

Najma Dawood Khan	..Petitioner
Vs.	
The State of Maharashtra & Ors.	..Respondents

WITH

WRIT PETITION NO.164 OF 2019

Kamidi Laxmi Anand ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION NO.182 OF 2019**

Sarfuddin Umar Shaikh ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION NO.203 OF 2019**

Shaikh Bibijaan Allahbaksh ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION NO.206 OF 2019**

Khalil Rehman Shaikh ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION NO.236 OF 2019**

Zeenat Sayyed Peerjaan ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION NO.239 OF 2019**

Shaikh Hasmat Bano Yunus ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION NO.241 OF 2019**

John Martina Samuel ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION NO.244 OF 2019**

Ismal Gafoor Sayyed ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION NO.245 OF 2019**

Joseph Anthony Baretto ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION NO.246 OF 2019**

Ramesh Gangaram Hambire ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION NO.248 OF 2019**

Mumtaz Gulam Dastagir Sayyed ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION NO.249 OF 2019**

Lilabai Anant Gangavane ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

**WITH
WRIT PETITION NO.250 OF 2019**

Sayyed Sirayunnissa Inauatulah ..Petitioner
Vs.

The State of Maharashtra & Ors.

..Respondents

**WITH
WRIT PETITION NO.253 OF 2019**

Mohammed Tayyab Ali

..Petitioner

Vs.

The State of Maharashtra & Ors.

..Respondents

**WITH
WRIT PETITION NO.254 OF 2019**

Ruksana Bashir Sayyed

..Petitioner

Vs.

The State of Maharashtra & Ors.

..Respondents

**WITH
WRIT PETITION NO.256 OF 2019**

Sayyed Kalim Gulam Dastyagir

..Petitioner

Vs.

The State of Maharashtra & Ors.

..Respondents

**WITH
WRIT PETITION NO.257 OF 2019**

Mariyambi Abdul Wahab

..Petitioner

Vs.

The State of Maharashtra & Ors.

..Respondents

**WITH
WRIT PETITION NO.258 OF 2019**

Abdul Rauf Abdul Khuddus Siddique

..Petitioner

Vs.

The State of Maharashtra & Ors.

..Respondents

**WITH
WRIT PETITION NO.259 OF 2019**

Aminabi Bhadur Ali

..Petitioner

Vs.

The State of Maharashtra & Ors.

..Respondents

**WITH
WRIT PETITION NO.293 OF 2019**

Farzana Mohammed Hussain Shaikh	..Petitioner
Vs.	
The State of Maharashtra & Ors.	..Respondents

**WITH
WRIT PETITION NO.295 OF 2019**

Sayyed Jahindunnissa Hussain Basha	..Petitioner
Vs.	
The State of Maharashtra & Ors.	..Respondents

**WITH
WRIT PETITION NO.306 OF 2019**

Ayeshabi Adam Shaikh	..Petitioner
Vs.	
The State of Maharashtra & Ors.	..Respondents

**WITH
WRIT PETITION NO.307 OF 2019**

Shaikh Noorinnissa Allahabaksh	..Petitioner
Vs.	
The State of Maharashtra & Ors.	..Respondents

**WITH
WRIT PETITION NO.308 OF 2019**

Mohd. Rafiq Shaikh	..Petitioner
Vs.	
The State of Maharashtra & Ors.	..Respondents

**WITH
WRIT PETITION NO.309 OF 2019**

Mohammed Aarif Mohammed Rafiq Sayyed	..Petitioner
Vs.	
The State of Maharashtra & Ors.	..Respondents

**WITH
WRIT PETITION NO.310 OF 2019**

Hamida Bi Md. Ali Khan	..Petitioner
Vs.	
The State of Maharashtra & Ors.	..Respondents

**WITH
WRIT PETITION NO.311 OF 2019**

Asgar Ali Anwar Ali Shaikh	..Petitioner
Vs.	
The State of Maharashtra & Ors.	..Respondents

**WITH
WRIT PETITION NO.312 OF 2019**

Nancy D'Souza	..Petitioner
Vs.	
The State of Maharashtra & Ors.	..Respondents

Dr.Birendra Saraf with Mr.Arun Panickar and Mr.Mangesh Sawant for Petitioners in WP No.2310/18.

Mr.Mayur Khandeparkar with Mr.Arun Panickar and Mr.Mangesh Sawant for Petitioner in WP No.2276/18.

Dr.Birendra Saraf with Mr.Mayur Khandeparkar, Mr.Arun Panickar and Mr.Mangesh Sawant for Petitioners in WP No.4225/18.

Mr.Arun Panickar with Mr.Mangesh Sawant for Petitioners in all other Wps.

Mr.Milind Sathe, Senior Advocate, with Mr.Rohan Kadam, Ms.Sheetal Agne, Ms.Asha Nair i/b. Diamondwala & Co. for Respondent No.7.

Ms.Hetal Savla and Mr.Surendra Vishwakarma for Respondent No.7.

Mr.J.G. Aradwad (Reddy) for Respondent No.2/SRA.

Mr.Shakeel Shaikh with Mr.Sandeep Dhangar i/b. Mr.Jayesh Vyas for Respondent No.6.

Mr.Manish Upadhye, AGP for State in WP Nos.2310/18, WPL No.2778/18, WPL No.2801/18, WPL No.2802/18, WPL No.2804/18, WPL No.2847/18.

Mr.Sukanta Karmakar, AGP for State in WP No.2276/18, WPL No.2848/18, WPL No.2854/18, WPL No.2857/18, WPL No.2859/18, WPL No.2869/18,

Mr.Kedar Dighe, AGP for State in WPL No.2957/18, WPL No.2960/18, WPL No.2961/18, WPL No.3060/18, WPL No.3061/18, WPL No.3063/18.

Smt.Uma PalsuleDesai, AGP for State in WPL No.3064/18, WPL

No.3067/18, WPL No.3114/18, WPL No.3115/18, WPL No.3116/18, WPL No.3117/18.

Mr.R.J. Mane, AGP for State in WPL No.3118/18, WPL No.3119/18, WPL No.3127/18, WPL No.3298/18, WP No.3664/18, WP No.3672/18.

Mr.M.A. Sayed, AGP for State in WP No.3679/18, WP No.3682/18, WPL No.4210/18, WPL No.4211/18, WPL No.4225/18, WPL No.4229/18.

Smt. Jyoti Chavan, AGP for State in WPL No.4306/18, WP No.31/19, WP No.34/19, WP No.37/19, WP No.39/19, WP No.65/19.

Mr.Hemant Haryan, AGP for State in WP No.66/19, WP No.67/19, WP No.68/19, WP No.70/19, WP No.72/19, WP No.78/19.

Mr.Amit Shastri, AGP for State in WP No.80/19, WP No.84/19, WP No.96/19, WP No.133/19, WP No.136/19, WP No.158/19.

Mr.Himanshu Takke, AGP for State in WP No.162/19, WP No.163/19, WP No.164/19, WP No.182/19, WP No.203/19, WP No.206/19.

Mr.S.B. Gore, AGP for State in WP No.236/19, WP No.239/19, WP No.241/19, WP No.244/19, WP No.245/19, WP No.246/19.

Mr.L.T. Satelkar, AGP for State in WP No.248/19, WP No.249/19, WP No.250/19, WP No.253/19, WP No.254/19, WP No.256/19.

Mr.Dushyant Kumar, AGP for State in WP No.257/19, WP No.258/19, WP No.259/19, WP No.293/19, WP No.295/19, WP No.306/19.

Ms.Deepali Patankar Asst.GP for State WP No.307/19, WP No.308/19, WP No.309/19, WP No.310/19, WP No.311/19, WP No.312/19.

CORAM : G.S. KULKARNI, J.

DATE : 4th FEBRUARY, 2019

P.C.:

1. Heard learned Counsel for the petitioners and the learned Counsel for the respondents. This batch of petitions raise a common challenge, which is to the orders passed by the Grievance Redressal Committee, whereby the appeals as filed by the petitioners/slum dwellers, assailing the orders passed by the Additional Collector (Encroachment and Removal)/appellate authority under Sections 33 and 38 of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (for short, the "Slums Act"), stand dismissed.

2. The impugned orders although similar, are passed on different dates by the Grievance Redressal Committee. The facts are similar and the grounds of challenge in all these petitions are also similar. For convenience the learned counsel for the parties have made submissions on the first writ petition (W.P. No.2310 of 2018) wherein the impugned order passed by the Grievance Redressal Committee is dated 31 March 2018, confirming the appellate order dated 21 July 2017 passed by the Additional Commissioner (Encroachment and Removal).

3. The consequence of the impugned orders is that the petitioners become liable to be evicted from their respective slum tenements for the purpose of implementation of a slum scheme as per the provisions of Section 33 read with Section 38 of the Slums Act.

4. It would be appropriate to note the provisions of Sections 33 and 38 of the Slums Act under which the original order is passed. These provisions read thus:-

“33. Power to remove offensive or dangerous trade from slum areas.

The Competent Authority may, by order in writing, direct any person carrying on any dangerous or offensive trade in a slum area to remove the trade from that area within such time as may be specified in the order:

Provided that, on under this section shall be made unless the person carrying on the trade has been afforded a reasonable opportunity of showing cause as to why the order should not be made.

38. Order of demolition of buildings in certain cases

(1) Where the erection of any building has been

commenced, or is being carried out, or has been completed, in contravention of the provisions of section 8 or of any restriction or condition imposed under sub-section (10) of section 12, or a plan for the redevelopment of any clearance area or in contravention of any notice, order or direction issued or given under this Act, the Competent Authority may, in addition to any other remedy that may be resorted to under this Act or under any other law, make an order directing that such erection shall be demolished by the owner thereof within such time not exceeding two months as may be specified in the order, and on the failure of the owner to comply with the order, the building so erected shall be liable to forfeiture or to summary demolition by an order of the Competent Authority and the expenses of such demolition shall be recoverable from the owner as arrears of land revenue:

Provided that, no such order shall be made unless the owner has been given a reasonable opportunity of being heard.

(2) Forfeiture under this section shall be adjudged by the Competent Authority, and any property so forfeited shall be disposed of as the Competent Authority may direct; and the cost of removal of the property under this section shall be recoverable as an arrears of land revenue.

(3) For the purpose of causing any building to be demolished under sub-section (1) the Competent Authority may use or cause to be used such force as may be necessary.”

5. It is not in dispute that the land in question is a Government land on which a slum scheme is in the process of being implemented at the behest of respondent No.7-Nidhi Concept Realtors Pvt.Ltd. According to respondent No.7, out of total 1263 slum dwellers about 878 slum dwellers have vacated their tenements. The petitioners who are about 125 in number had refused to vacate their premises and therefore, respondent No.7 had approached the competent authority seeking an eviction action to be taken against the petitioners under Section 33 read with Section 38 of the Slums Act as noted above.

6. The competent authority/Deputy Collector (Encroachment and Removal) considering the rival pleas, passed an order dated 6 May 2017 directing the petitioners to accept rent of Rs.13,000/- per month and to vacate their respective tenements within 7 days of the receipt of the said order failing which an action under Section 38 of the Slums Act would be initiated against the petitioners.

7. The said order passed by the competent authority came to be challenged by the petitioners by filing appeals before the Additional Collector (Encroachment and Removal)/appellate authority, who also by an order dated 21 July 2017 confirmed the order dated 5 May 2017 passed by the competent authority. Against the said orders passed by the Additional Collector/appellate authority, the petitioners approached the Grievance Redressal Committee/respondent No.5 in an appeal as provided under Section 35 of the Slums Act. Now Section 35 of the Slums Act has been amended by Maharashtra Act No.38 of 2018 with effect from 26 April 2018. Prior to the amendment Sub-Section (b) of Section 35 was as under:-

“35

1(A) a.....

(b) for the purpose of resolving dispute in relation to matters about eligibility of slum dweller, eligible slum dweller being denied tenement, developer not undertaking and completing the project as per the permission and approval so also within the stipulated time frame, transit accommodation being unavailable or not provided and likewise,

may file an appeal before the Grievance Redressal Committee constituted by the State Government, by notification in the Official Gazette, for such area and consisting of the Chairperson and such number of members as the Government may deem fit. The qualifications of the Chairperson and the members of the Committee and the procedure to be followed for transacting its business shall be such as may be prescribed.”

8. As amended by Act No.38 of 2018, Section 35 while providing an appeal before the Grievance Redressal Committee would read thus:-

“35. Appeals

[(1) Except as otherwise expressly provided in this Act, 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, in respect of the areas of Municipal Corporations and “A” Class Municipal Councils, and not below the rank of Deputy Collector, in respect of areas of other Municipal Councils, to be notified by the State Government, within a period of thirty days from the date of issue of such notice, order or direction.]

[(1A) Any person, -

(a) aggrieved by any notice, order or directions issued or given by the Appellate Authority under sub-section (1), within a period of thirty days from the date of issue of such notice, order or direction;

[(b) for the purpose of resolving any dispute in relation to matters regarding the declaration of Slum Rehabilitation Area under section 3C and order of slum clearance under section 12 or order under section 13 against the owner or developer not undertaking and completing the project as per the permission and approval so also within the stipulated time frame or order regarding eviction of the slum dweller from Slum Rehabilitation Area under section 3D, by the Chief Executive Officer and about eligibility of slum dweller, eligible slum dweller being denied tenement, transit accommodation being unavailable or not provided and likewise,]

may file an appeal before the Grievance Redressal Committee constituted by the State Government, by notification in the Official Gazette, for such area and consisting of the Chairperson and such number of members as the Government may deem fit. The qualifications of the Chairperson and the members of the Committee and the

procedure to be followed for transacting its business shall be such as may be prescribed.]

(2) Every appeal under this Act shall be made by petition in writing accompanied by a copy of the notice, order or direction appealed against.

[(3) Any appeal shall not operate as a stay order appealed from except so far as the Appellate Authority may grant by reasoned order, nor shall execution of any order be stayed by reason only of an appeal having been preferred from, but the Appellate Authority may for sufficient cause order stay of execution of such order and if the notice, order or direction against which appeal is made and is set aside by Appellate Authority on an appeal disobedience thereto shall not be deemed to be an offence.

(4) No appeal shall be decided under this section unless the appellant had been heard or has had a reasonable opportunity of being heard in person or through a legal practitioner.

(5) The decision of the [Grievance Redressal Committee] on appeal shall be final and shall not be questioned in any court.”

9. The petitioners have assailed the impugned order dated 31 March 2018 passed by the Grievance Redressal Committee principally on two grounds. Firstly, that the competent authority/Deputy Collector ought not to have accepted the plea as urged on behalf of the developer that the developer is ready and willing to pay an amount of Rs.13,000/- p.m. as rent for the alternate premises which the petitioners would acquire on vacating of their premises. According to the petitioners at that point of time, such a plea was not available to be taken by the Competent Authority in as much as rent could be offered only when there was no place available in the transit camp. It is submitted that thus such a plea could not have been taken by the developer as it was mandatory for the developer to provide transit accommodation as per the policy and as

provided under Appendix IV of Regulation 33(10) of Development Control Regulations, 1991, being a requirement under law. Secondly, it is contended that the petitioners had raised several grounds in the appeal in assailing the order passed by the Additional Collector. A perusal of the appeal memo would also indicate that there are grounds (a) to (r) in paragraph 19. The contention as urged on behalf of the petitioners is that the impugned order passed by the Grievance Redressal Committee would show that there is no reasoning whatsoever recorded by the Grievance Redressal Committee in dealing with these grounds of challenge. In this regard the attention of the Court is drawn to the only paragraph i.e. last paragraph of the order being the only reasons. It is contended that the impugned order as passed by the Grievance Redressal Committee needs to be set aside on this ground alone.

10. On the other hand, Dr.Sathe, learned Senior Counsel for respondent No.7/developer, has opposed this petition. It is submitted that the grounds as asserted by the petitioners are also on the issues of change of the developer, which are proceedings under Section 13(2) of the Slums Act and which are not relevant, as the issue before the Grievance Redressal Committee was only in regard to the eviction of the petitioners who were required to be removed for implementing of slum

rehabilitation scheme. Dr.Sathe submits that the petitioners have no legal right to continue in occupation of their respective tenements and as majority of the slum dwellers have vacated and these petitioners cannot cause hurdles in the implementation of the slum redevelopment scheme. It is submitted that in any case the grievance as urged on behalf of the petitioners as urged in the present petition ought not to weigh with the Court inasmuch as the Grievance Redressal Committee has confirmed the orders passed by the competent authority as also appellate authority,there are concurrent findings of facts against the petitioners. Dr.Sathe, learned Counsel for the developer has, accordingly prayed for dismissal of the petitions.

11. Having heard learned Counsel for the parties and having perused the record, it appears to be quite clear that the slum rehabilitation scheme was being implemented on the land in question. An action was initiated against the petitioners under Section 33 read with Section 38 of the Slums Act as the petitioners refused to vacate the premises and were causing obstacles in redevelopment scheme. No doubt that there are concurrent findings as recorded by the competent authority and also by the appellate authority against the petitioners directing that the petitioners should vacate the slum premiss in their possession. however the fact remains that although the impugned order was passed on 31

March 2018 and these petitions were filed in June 2018, till date the petitioners have remained in possession of their respective premises and no eviction action was taken by the authority against the petitioners, more particularly when there was no stay on eviction granted in these petitions.

12. From the submissions as made at the bar, it is also clear that there are disputes between the parties in regard to the change of developer under Section 13(2) of the Slums Act. Dr.Sathe, learned Senior Counsel for respondent no.7- developer has contended that in writ petitions in which the subject matter of challenge is to the order under Section 13(2) of the Act, a Division Bench of this Court by an interim order dated 13 April 2018 directed that any steps taken during the pendency of the said petitions shall be subject to the outcome of the said petitions and accordingly the respondent no.7 is undertaking the scheme. It is a matter of record that these petitions were heard by this Court (as later on transferred to be heard by a Single Judge) for final hearing and are closed for judgment.

13. Now coming to the impugned order, it can be clearly seen that the Grievance Redressal Committee has not recorded any reasons dealing with the specific grounds which are set out in appeal memo. There is also an issue which the Grievance Redressal Committee ought to have

considered in exercising jurisdiction under Section 35 of the Slums Act as also it stood prior to the amendment, namely whether in the facts of the case, the proposal as made on behalf of the developer, to offer rent to the slum dwellers was required to be accepted in law or that the transit accommodation ought to have been provided by the developer. These are the issues which fall under the statutory scheme and is a legal assertion on the part of the petitioners. A perusal of the impugned order does not indicate that any finding is returned on these legal issues.. The impugned order confirms the order passed by the competent authority of eviction and admittedly, entails civil consequences affecting the right to shelter as guaranteed to the petitioners who are about 125 in number.

14. In the above circumstances, and considering the ambit of jurisdiction of the Grievance Redressal Committee under Section 35, all these issues are required to be gone into by the Grievance Redressal Committee. The impugned order merely records the pleas of the parties and by the following incomprehensible and cryptic reasons, the petitioners' appeals have been dismissed.

“The Slum Rehabilitation Scheme is a social welfare measure undertaken by government with a noble object of uplifting the life and living conditions of poor slum dwellers languishing in filth and dirt for years together. This Committee is of the view that most of the time the schemes are delayed for considerable period due to non-co-operation of few unscrupulous slum dwellers for whose benefit the scheme is promulgated. In present case also the rehabilitation of large

number of slum dwellers is involved. The redevelopment work cannot be stalled at the instance of few slum dwellers. There is no merit in appeal and appeal is liable to be dismissed. Hence following orders.”

15. The contention as urged on behalf of the respondent No.7 that majority of the slum dwellers have vacated the premises and that the petitioners also should vacate the premises. The petitioners disputed these submissions and in the circumstances the others have vacated. In my opinion, at this stage of the proceeding and the order which is proposed to be passed, the Court is not required to consider such rival claims and they need not be gone into in deciding these petitions, suffice it to observe that the petitioners as slum dwellers would have independent rights as conferred under the Slums Act as also statutory provisions of Regulation 33 (10) of the Development Control Regulations for Greater Bombay under which the slum scheme is being undertaken.

16. In the above circumstances, it would be appropriate and in the interest of justice that the Grievance Redressal Committee decides the appeals of the petitioners afresh, by addressing all the grounds of challenge as raised on behalf of the petitioners and as set out in the appeal memo.

17. The petitions are thus required to be allowed. Hence, the

following order:-

ORDER

(i) The impugned order dated 31 March 2018 passed by the Grievance Redressal Committee is set aside with a direction that the Grievance Redressal committee shall decide the appeals as filed by the petitioners, afresh, within a period of six weeks from today in accordance with law.

(ii) All contentions of the petitioner and the respondent No.7-Developer are expressly kept open;

(iii) Needless to observe that the Grievance Redressal Committee shall take into consideration all the grounds as raised in the appeals and shall pass a reasoned order while disposing such appeals;

(iv) In the meantime till the disposal of the appeals by the Grievance Redressal Committee and as no coercive action has been taken against the petitioner since order dated 6 May 2017 as passed by the competent authority, no action for eviction be taken till the appeals are decided by the Grievance Redressal Committee and for a period of one week thereafter, if the appeals are decided against the petitioners and the orders so communicated.

(v) At this stage, Dr.Sathe, learned Senior Counsel for the respondent No.7-developer, submits that the petitioners shall be directed to co-operate in the hearing of the appeals before the Grievance Redressal Committee and that they shall not seek any adjournment. Learned counsel for the petitioner on instructions state that at the hearing before the Grievance Redressal Committee, no adjournment shall be sought on behalf of the petitioners;

(vi) The petitions stand disposed of in the above terms. No costs.