

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

WRIT PETITION NO.481 OF 2018

Jayashree Dagadu Sutar	...	Petitioner
versus		
High Power Committee and Ors.	...	Respondents

Mr. Sameer Kulge, for Petitioner.
Mr. A.L.Patki, AGP, for State.
Mr. Anoop Patil, for SRA.

**CORAM: AKIL KURESHI &
S.J. KATHAWALLA, JJ.**

DATE: 1st AUGUST, 2019

P.C.:

1. By the above Writ Petition, the Petitioner has impugned the order of the High Power Committee dated 18th September, 2017 rejecting the application filed by the Petitioner for impleading her name in Annexure II under the SRA Scheme.
2. According to the Petitioner, she was having her structure admeasuring 10 x 30 sq.ft., at C.T.S.No.351 (pt), Slum Colony at Samarth Nagar, Sion Trombay Road, Chembur, Mumbai – 400 071 (the said structure) and that the same was in existence since 1985. According to the Petitioner, the said structure was demolished in the year 1996 by the “Municipal Corporation of Greater Mumbai”. In view thereof, the Petitioner filed L.C.Suit No.1776 of 1998 in the City Civil Court at Mumbai. The Mumbai Municipal Corporation by a letter dated 30th October, 1998 permitted the

Petitioner to reconstruct the said structure on the said plot of land. The said Suit was disposed off on 12th June, 2009 since the Petitioner through her Advocate informed the Court that she was not wanting to proceed with the suit because the Corporation had allowed her to reconstruct the said structure.

3. According to the Petitioner, in the meantime, steps were taken for redevelopment of the plot on which her structure was situated, by the Respondent No.4 – Developer under the provisions of the Slum Rehabilitation Act. According to the Petitioner, she made an Application dated 13th August, 2009 to the Slum Rehabilitation Authority, seeking insertion of her name in Annexure II. Since no action was taken on her application, she filed an Appeal before the Additional Collector (ENC/EVI), Mumbai District being No.914 of 2009 on 19th November, 2009. The Additional Collector sent the said Appeal papers to Respondent No.3 i.e. Deputy Collector, Chembur for verification of original documents. By an Order dated 10th March, 2011, the claim of the Petitioner was rejected by Respondent No.3 – Deputy Collector on the ground that the structure of the Petitioner was demolished as far back as in the year 1996 i.e. much before the steps taken for redevelopment of the plot by the developer under the provisions of the Slum Rehabilitation Act. The Petitioner challenged the said order dated 10th March, 2011 before the Additional Commissioner, Konkan Division, by filing an Appeal bearing No.64 of 2012, which was rejected on 31st July, 2012, on the ground that the challenge was not maintainable.

The Petitioner therefore challenged the order dated 31st July, 2012 passed by the Additional Commissioner, Konkan Division, by way of Writ Petition No.52 of 2013. By an order dated 11th February, 2013, this Court allowed the Petitioner to make a representation to the Slum Rehabilitation Authority and directed the Authority to dispose off the representation as expeditiously as possible and preferably within six weeks from the date of the order. By an Order dated 19th March, 2013, the representation dated 27th August, 2008 was rejected by the Respondent No.2 - Slum Rehabilitation Authority. The Petitioner therefore, filed Appeal bearing No.238 of 2013 before the High Power Committee challenging the order passed by the Slum Rehabilitation Authority dated 19th March, 2013. The High Power Committee has dismissed the Appeal filed by the Petitioner by an order dated 18th September, 2017. The Petitioner has therefore, filed the present Petition challenging the said order.

4. We have heard the learned Advocates for the Petitioner as well as Respondents. As stated earlier, it is claimed by the Petitioner that her structure was demolished in the year 1996. She thereafter approached the City Civil Court by filing L.C.Suit No.1776 of 1998. By a letter dated 13th October, 1998 she was allowed to reconstruct the said structure on the said plot of land. The said Suit was not pressed by the Petitioner on the ground that permission was granted to her to reconstruct the said structure. The Petitioner is unable to give any answer to the query raised by the Court as to why the structure was not reconstructed, if she was allowed to do so by a

letter dated 13th October, 1998. We have also perused the detailed order passed by the High Power Committee, clause (v) of paragraph 4 of which is relevant and reproduced hereunder :

“ In view of the aforesaid facts, it is clear that the structure of the Applicants were demolished prior to 12th June, 1996 and in spite of the reconstruction order dated 30th October, 1998 issued by Ward Officer M/West Ward MCGM the same were not reconstructed. Therefore, neither the name of the Applicant is shown in Certified Annexure II dated 19th March, 2003 nor their structures are shown in the Certified Slum Plan. Therefore, the contention of the applicants that the structure were not constructed as the L.C.Suit No.1776 of 1998 was pending, cannot be accepted as there were no restraining order for reconstruction of the said structure from the date of filing of the said suit in the year 1998 till the disposal of the said Suit on 12th June, 2009.

From the aforesaid facts, it is established that the Applicant's structure were demolished prior to 12th August, 1996 by MCGM which is much prior to submission of the S.R.Scheme and the issuance of Certified Annexure II dated 19th March 2003 issued by Dy. Collector (E/R) and Competent Authority, Chembur. Therefore, in the present case, rightly the names and structures of the Applicants are not reflected in the Certified Annexure II dated 19th March, 2003 as well as the Certified Slum Plan.”

5. The High Power Committee has in our view correctly held that the said structure of the Petitioner was demolished prior to 12th August, 1996 by MCGM which is much prior to submission of the S.R.Scheme and the issuance of Certified

Annexure II dated 19th March, 2003 issued by the Dy. Collector, (E/R) and Competent Authority, Chembur. Therefore, the name and structure of the Petitioner is not reflected in the Certified Annexure II dated 19th March, 2003 as well as the Certified Slum Plan and therefore, the Petitioner is not entitled to any relief as prayed for. Therefore, the impugned Order of the High Power Committee needs no interference under Article 226 of the Constitution of India and the Writ Petition is dismissed, with no order as to costs.

(S.J.KATHAWALLA, J.)

(AKIL KURESHI, J.)