

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE / APPELLATE SIDE

WRIT PETITION NO. LD/VC- 302 OF 2020

Gorukah Naval Singh Maan Singh. ... Petitioner.

V/s.

M/s.Dhaanji Gelabhai Gala and others. ... Respondents.

WITH

WRIT PETITION NO. 664 OF 2019

M/s.Dhaanji Gelabhai Gala. ... Petitioner.

V/s.

The Apex Grievance Redressal Committee
and others. ... Respondents.

Mr.Nitesh Acharya for the Petitioner in WP-LD/VC
No.302/2020 and for Respondent No.5 in WP No.664/2019.

Mr.Rajeev Chavan, Senior Advocate with Mr.Amit Potnis i/b.
Tamhane & Co. for the Petitioner in WP No.664/2019 and
for Respondent No.1 in WP-LD/VC No.302/2020.

Ms.Rupali Shinde, AGP for the State in WP No.664/2019

Mr.Manish Upadhye, AGP for the State in WP-LD/VC
No.302/2020.

CORAM : NITIN JAMDAR AND
MILIND JADHAV, JJ.

DATE : 15 October 2020.
(Through Video Conferencing)

P.C. :

These two petitions concern the same subject matter and
have been heard together and disposed of by a common order.

2. The Petitioner in Writ Petition No.664/2019 referred to as the Developer had developed the property at Final Plot No.554, Mahim, Mumbai. The area was notified as slum and known as Jai Hanuman Nagar. The Developer proceeded under Rule 33(10) of the Development Control Rules. One of the occupants Mr.Gorukah Naval Singh Maan Singh, Petitioner in WP-LDVC No.302/2020, referred to as Mr.Singh was living in the said slum. When the Slum Rehabilitation Authority prepared an Annexure-II which is an authentic list of the occupants, the name of Mr.Singh appeared therein. According to Mr.Singh, he vacated the premises to enable redevelopment, however, in spite of his name appearing in Annexure-II, he was not given any premises. Mr.Singh learned that in the records, the Developer and the Respondent- Society had shown the rehab flat as allotted to the Mr.Singh but it was not handed over to him. Mr.Singh found some other person staying in the allotted flat which was given to him on leave and licence basis by the Developer and the Respondent- Society. Mr.Singh approached the Apex Grievance Redressal Committee (Apex Committee) which directed a site visit and having satisfied that an unauthorized person was occupying the premises, directed his eviction by order dated 7 December 2018. Further order was passed by the Apex Committee on 6 July 2019 directing the Developer to hand over the premises to Mr.Singh. Thereafter further identical orders were passed on 3 August 2019, 19 October 2019 and 20/11/2019. During hearing

before the Apex Committee, the Developer gave an undertaking dated 3 August 2019 to abide by the orders.

3. Writ Petition No.664/2019 is filed by the Developer challenging the orders dated 7 December 2018 and 10 December 2018. Writ Petition No.LDVC-302/2020 is filed by Mr.Singh for a direction to the Respondent- authorities to comply with the orders passed by the Apex Committee.

4. We take up the challenge by the Developer first. The Developer in its petition has only challenged the orders dated 7 December 2018 and 10 December 2018. The said writ petition is pending. There are no interim orders. Subsequent orders passed by the Apex Committee are not challenged. No amendment is carried out. In fact, subsequent to the filing of the petition, the Developer has given undertaking to comply with the directions given by the Apex Committee.

5. The learned Senior Advocate appearing for the Developer contends that Mr.Singh had sold the premises. It is contended that the Developer had no role to play and it is the Respondent- Society who had informed the Developer that it is Mr.Changura Gupta (Respondent No.6 in WP No.664/2019) who was entitled and, accordingly, the keys were handed over to Changura Gupta who has further sold the premises. Learned counsel submitted that in the circumstances, the Developer cannot be made

to suffer. He further submitted that the Developer was required to give an undertaking before the Apex Committee because the project was held up. The learned counsel appearing for Mr.Singh submitted that the Developer has not challenged the subsequent orders and in view of his undertaking, his petition need not be considered. It is submitted that Mr.Singh's name admittedly appears in the Annexure-II and he is not given the premises due to him.

6. Whenever the redevelopment takes place under Rule 33(1) of the Development Control Rules, the authorities carry out survey of slum dwellers and prepare what is known as Annexure-II. The Annexure-II is the basis upon which allotment to the eligible rehabilitated components of the construction is made. If an ineligible is appearing in Annexure-II, then an appeal is provided to the aggrieved party. In short, as far as the Developer is concerned, he goes by the eligibility in Annexure-II while making allotment. When the name of Mr.Singh was appearing as eligible in Annexure-II, there was no reason for the Developer to hand over the keys of the premises to some other person. The explanation that the Developer did so because the Respondent- Society informed him to do so cannot be accepted. There is no reason for the Developer not to allot the premises as per Annexure-II. In this background, the assertion of Mr.Singh that he was deliberately kept out of the premises which was meant for him will have to be accepted. The Apex Committee, therefore, has rightly issued directions from time to time to the Developer to evict the unauthorized person and put Mr.Singh in

possession of the premises. We find no perversity or jurisdictional error in the directions issued by the Apex Committee. Further the Developer has not challenged the subsequent orders passed by the Apex Committee. On the other hand, the Developer has given an undertaking to abide by the same. In the circumstances, the writ petition filed by the Developer is liable to be rejected.

7. As far as the petition filed by Mr.Singh is concerned, the orders passed by the Apex Committee are in his favour. The orders passed by the Apex Committee will have to be executed. It is informed that it is the obligation of the Officers of the Slum Rehabilitation Authority to implement the orders of the Apex Committee. Since it is the duty of the Officers of the Slum Rehabilitation Authority to carry out the directions of the Apex Committee, they shall carry out the same within a reasonable period. No further orders are required to be passed in the petition filed by Mr.Singh.

8. Accordingly, Writ Petition No. 664/2019, filed by the Developer, is rejected and Writ Petition No. LD/VC- 302/2020, filed by Mr.Singh, is disposed of in the above terms.

9. This order will be digitally signed by the Personal Assistant/ Private Secretary of this Court. All concerned to act on production by fax or email of a digitally signed copy of this order.

(MILIND JADHAV, J)

(NITIN JAMDAR, J)