

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.7933/2018

Vijay s/o Pyarelal Shahane

...Versus...

Shree Subhash Shankarlal Yadav and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Shri S. I. Khan, Counsel for petitioner
Mrs. Geeta Tiwari, AGP for respondent No.5/State

CORAM : AVINASH G. GHAROTE, J.

DATE : 03/03/2020

1. Shri Khan, learned Counsel for the petitioner assails the order dated 20/4/2017 passed by the Competent Authority (Slum) N.M.C., Nagpur, by which the respondent nos.1 and 2 were permitted to file a suit for removal of encroachment and possession. He contends that the ingredients, as provided in Section 22 of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (for short, hereinafter referred to as "The Slum Act, 1971"), have not been considered while granting the permission and therefore, the impugned order is vitiated.

2. A perusal of provision of Section 22 of the Slum Act, 1971 indicates that any person, intending to file a suit or proceeding for obtaining a decree or order for eviction of an occupier from any building or land in a slum area or for recovery of any arrears of rent or compensation shall have to

apply to the Competent Authority for permission for institution of such a suit. Sub Section (4) & (4 A) of Section 22 of the Slum Act, 1971 indicates the parameters to be taken into account by the Competent Authority while granting permission.

3. In the instant case, the respondent nos.1 and 2 have approached the Competent Authority with a case that the non-applicants have encroached upon a portion of the suit property, due to which the permission was sought.

4. A perusal of the impugned order indicates that the Competent Authority has considered the averments made in light of the earlier proceedings filed against the present petitioner and the judgment and decree dated 31/7/1985 passed in Regular Civil Suit No.470/1979 between the present petitioner and the predecessors-in-title of the present respondents and the consequent encroachment again done by the petitioner, in light of which, the question of non-consideration of the parameters, as contained in Sub Section (4), (4 A) of Section 22 of the Slum Act does not arise at all.

5. In the above view of the matter, the impugned order, therefore, cannot be faulted with. The writ petition therefore is, without any merits and is accordingly dismissed. No order as to costs.

JUDGE