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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 5154 OF 2019

RAMAKANT S/O. BHAGWATIPRASHAD PANDEY ..PETITIONER
VS.
THE STATE OF MAHARASHTRA & ORS. ..RESPONDENTS

WITH

**INTERIM APPLICATION NO. 1001 OF 2021
IN
WRIT PETITION NO. 5154 OF 2019**

SMGK DEVELOPERS PVT. LTD. ..APPLICANT

IN THE MATTER BETWEEN

RAMAKANT PANDEY S/O. BHAGWATIPRASHAD ..PETITIONER
VS.

THE STATE OF MAHARASHTRA & ORS. ..RESPONDENTS

Mr. Drupad Patil a/w. Zaid Ansari i/b. Zaid S. Ansari & Associates
for the applicant.

Mr. Rajesh Singh for the petitioner.

Mr. C.D. Mali, AGP for the respondent Nos.2 & 3 - State.

CORAM : M.S.KARNIK, J.

DATE : AUGUST 18, 2021

P.C.:-

Heard learned counsel for the petitioner.

2. It is the case of the petitioner that initially he was found to be eligible and his name was included in the Annexure – II. Later on, on the basis of some complaints made, an inquiry was conducted. The Deputy Collector (Enc.), the competent authority under the Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 found him to be an ineligible slum dweller. The petitioner's appeal before the Grievance Redressal Committee also came to be dismissed vide impugned order dated 5/4/2018.

3. Learned counsel for the petitioner submitted that, before the authorities, the petitioner had produced several documents in support of his case that he was eligible slum dweller, occupying the structure prior to 1/1/2000 which is the Datum Line. To support his case, he produced electricity bills, ration card, copy of the Census Survey receipt, etc. The authorities concurrently found that none of the documents relied upon established the factum of petitioner occupying the structure prior to 1/1/2000. Learned counsel for the petitioner vehemently contended that both the authorities below have completely

misread the documents especially the census survey receipt which is at page 61 of the paper-book. On the strength of this receipt, it is submitted that the structure was in petitioner's occupation prior to 1/1/1995. He therefore submits that this document is sufficient to establish the petitioner occupying the structure prior to 1/1/2000.

4. I have gone through the findings recorded by the authorities below. So far as the electricity bills are concerned, it is found that the electricity was connected in September 2000 and discontinued in the year 2011. Even the verification report submitted by the electricity authority, it was found that the electricity bills are in respect of the electricity connection which was in the name of some other person - Shri K.D. Shinde.

5. So far as the census survey receipt is concerned on which entire emphasis is placed, the Grievance Redressal Committee found that the census survey receipt ordinarily bears the name of the surveyor. If the receipt at page 61 is perused, the name of the surveyor is not mentioned and only the initials are found. Learned counsel for the petitioner submitted that it is not the petitioner's fault that the name of the surveyor is not mentioned in the said receipt and the petitioner cannot be deprived of the

benefit thereof only on this basis. He further submitted that it is the certified copy of the census survey receipt and therefore should be relied upon as an authentic document. The record, however, indicates that there was a verification which disclosed there was no record of the survey form in respect of the said purported survey receipt relied upon by the petitioner.

6. It was also found that the petitioner had purchased the suit hutment from one Mr. Rambali Sukaram Yadav, who was the chawl owner and the name of the Mr. Rambali Sukaram Yadav was found included at Serial No. 249 (hut No.T-3) in the voters list. For all these reasons and for the reasons mentioned in the impugned order, the Grievance Redressal Committee did not find merit in the case of the petitioner. There is hardly any cogent material on record to establish the petitioner's occupation prior to 1/1/2000. I see no reason to interfere with impugned order as the order is based on a proper appreciation of the materials on record and cannot be said to be perverse.

7. The Writ Petition stands rejected.

8. The developer who has filed the Interim Application No. 1001 of 2021 submitted that the petitioner is occupying a transit accommodation which needs to be demolished forthwith as the

same is in dilapidated condition. On instructions, learned counsel Shri Patil on behalf of the developer, makes a statement that the petitioner will be paid transit rent at the rate of Rs.8000/- per month for a period of six (6) months if the petitioner vacates the transit accommodation within four (4) weeks. Statement is accepted.

9. Subject to the petitioner filing an undertaking within a period of one (1) week from today that he will vacate the transit accommodation within a period of four (4) weeks from today, the petitioner is eligible to claim rent as per the statement of the developer.

10. If the undertaking is not filed within one (1) week, it is open for the developer to execute the order of the Deputy Collector.

11. The Interim Application is disposed of.

(M.S. KARNIK, J.)

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signed by
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