

Prajakta Vartak

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

WRIT PETITION NO.7073 OF 2021

Premji Rajuji Mistry @ Premraj **...Petitioner**
Vs.
Apex Grievance Redressal Committee & Ors. **...Respondents**

AND

WRIT PETITION NO.7074 OF 2021

Mangilal Premraj Mistry **...Petitioner**
Vs.
Apex Grievance Redressal Committee & Ors. **...Respondents**

Mr. Ram Mani Upadhyay with Mr. Manoj Singh and Mr. Vinod Singh for
Petitioners.

Mr. J.G. Aradwad-Reddy for Respondent No.1/AGRC.

Mr. Vijay Patil for Respondent No.2/SRA.

CORAM : G. S. KULKARNI, J.
DATE : NOVEMBER 30, 2021

PC :

1. Not on board. Taken on board on a praecipe being moved on behalf
of the petitioners.

2. Both these petitions have been filed praying for common reliefs. The
prayers in Writ Petition No.7073/21 can be noted which read thus:-

“(a) This Honorable Court be pleased to direct the
Respondent No.1 to commence a sitting of hearing at the
earliest for hearing and deciding the pending appeal of the
Petitioner i.e. Exhibit “A”.

(b) Pending hearing and disposal of stay application filed
along-with appeal before the Respondent No.1, the impugned
notice dated 18.10.2021 i.e. Exhibit “C”.

(c) Pending hearing and final disposal of this Petitioner, this
Honorable court be pleased to stay the effect and

implementation of impugned notice dated 18.10.2021 i.e. Exhibit "C".

(d) Interim and Ad interim orders in terms of prayer clause (c)."

3. An order came to be passed by the competent authority against the petitioners under Sections 33 and 38 of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (for short, "the Act") on 15 September, 2021. The said order has been challenged by the petitioners in both the petitions approaching the Apex Grievance Redressal Committee (for short, "the AGRC"). As the AGRC was not hearing the petitioners' interim application and/or the appeal, the present petitions have been filed. Both these petitions were moved before this Court (A. K. Menon, J.) on 22 October, 2021 when the Court passed the following order:-

"Not on board. Mentioned. Taken on production board.

1. On behalf of the petitioner, Mr. Upadhyay submits that the petitioner has been served with notice of demolition dated 18th October, 2021, copy of which is at Exhibit C. A Statutory Appeal has been filed under Section 35(1) of the Maharashtra Slum Areas Act but the Apex Grievance Redressal Committee (AGRC) which is designated to hear the Appeal has not been assembling this month and accordingly the petitioner has not been able to agitate the appeal before the AGRC.

2. Mr. Reddy is present on behalf of the AGRC. He confirms that the Committee is unavailable till at-least 29th October, 2021. However, he states that he will take instructions not later than 27th October, 2021.

3. In these circumstances, it is in the fitness of things that the order of demolition is not acted upon against the petitioners. Accordingly, the order will not be implemented as against the petitioner till 28th October, 2021.

4. Mr. Reddy undertakes to communicate the order to the appropriate Officer of respondent no.2.
5. Meanwhile, Mr. Upadhyay undertakes to file affidavit of service by 25th October, 2021.
6. S.O. to 27th October, 2021.”

The above order has continued to operate till date.

4. Today again the petitioners have prayed for extension of the said order. The order under Sections 33 and 38 of the Act has been passed at the behest of respondent no.3-developer who despite notice has not appeared in the present proceedings. Even notice of today's listing was also served on respondent no.3 and acknowledgment to that effect is placed on record. On perusal of the impugned order passed by the competent authority, it appears that respondent no.3 had not appeared on certain occasions even before the competent authority.

5. In these circumstances, in my opinion, no useful purpose would be served to keep these petitions pending and more particularly when the petitioner's appeal along with interim application filed before the AGRC itself is pending. Both the petitions are accordingly disposed of by the following order:-

ORDER

i. The AGRC is directed to consider the petitioners' appeal and/or interim application as expeditiously as possible and in any event decide the same within a period of four months from today.

- ii. In the meantime, the protection granted to the petitioners as mentioned in paragraph 3 of the order dated 22 October, 2021 shall continue to operate till the AGRC passes an order either on the interim application or on the appeal whichever is decided earlier. All contentions of the parties in the pending proceedings are expressly kept open.
- iii. Disposed of in the above terms. No costs.

(G. S. KULKARNI, J.)