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Corrected as per order dated 29/7/2022.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7031 OF 2022

Umesh Kalappa Bansode and Ors.

.... Petitioners

V/s

Chief Executive Officer,
Slum Rehabilitation Authority
Pune & Pimpri Chichwad Area, Pune
and Others

..... Respondents.

Mr. Ashok B. Tajane for the Petitioners.

Mr. Deepak R. More for Respondent Nos. 1 and 2.

Mr. A.V. Anturkar, Senior Advocate i/b Manish Kelkar for Respondent No.3.

CORAM: NITIN W. SAMBRE, J.

DATE: JULY 25, 2022

P.C.:-

1] These Petitioners/slum dwellers are questioning order passed by the Apex Grievance Redressal Committee (For short "AGRC") whereby their prayer for grant of stay to the eviction order dated 10/3/2021 pending Appeal being Application No.138 of 2021 came to be rejected

vide impugned order dated 14/1/2022.

2] Facts necessary for deciding present Petition are as under:-

3] All the Petitioners are residents of the area which is already declared/identified as slum pursuant to the provisions of Section 3D of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971.

4] Thereafter, it appears that Scheme was floated for development of the slum by the Respondent-developer and such Scheme was duly consented by 70% of the slum dwellers. As a sequel of above, notice of eviction was issued against the slum dwellers pursuant to the provisions of Section 3D whereby they were called upon to vacate the slum or face eviction/seizure of their right for rehabilitation. It appears that Petitioners thereafter approached in Appeal before the AGRC on the ground that their consent was obtained by practicing fraud and consent is not free from coercion. It is further claimed that at the behest of the Petitioners, Civil Suit being RCS No.1441 of 2021

is pending on the file of Civil Judge, Senior Division, Pune wherein relief of declaration of forged consent and further declaration of such consent extended by the Petitioners is not binding on them is sought. Further declaration is sought that Scheme of rehabilitation which is approved by the authority be not implemented in the backdrop of more than 70% of the slum dwellers opposing the said proposal.

5] In the aforesaid backdrop, contentions of Mr. Tajane, learned Counsel for the Petitioners are, once the subject referred to above is subjudice before the competent civil court and more than 70% of the slum dwellers are not supporting Slum Rehabilitation Scheme, least that was expected of the Apex Authority was to stay the execution and implementation of the Slum Redevelopment Scheme. He would further urge that prayer of the Petitioners for grant of temporary injunction is pending before the Trial Court. According to him, consent which was extended or obtained by the Respondent-developer was by practicing fraud and coercion and appropriate police complaint to that effect is already lodged which is under investigation.

6] The aforesaid contentions are opposed by Mr. Anturkar, learned Senior Counsel appearing on behalf of the Respondent No.3 – developer, so also by Mr. More, learned Counsel appearing for Respondent Nos. 1 and 2. According to them, fact that Slum Rehabilitation Scheme till this date is not under challenge is not in dispute. Counsel would further urge that objection to the implementation of the Scheme is post extending of consent by more than 70% of the members. As such, it is urged that Authority below was justified in not staying the implementation of the Scheme.

7] I have appreciated said submissions.

8] Appellate Authority while passing the order impugned has noted that Annexure-II was prepared for 137 slum dwellers out of which 104 slum dwellers are held to be eligible under Slum Rehabilitation Scheme. Out of 137 slum dwellers, 127 slum dwellers have consented for implementation of the subject Scheme. Whether consent of the slum dwellers was obtained by practicing fraud or coercion will be looked into in the pending suit. However, in the absence of any

material on record to prima facie infer that consent of such slum dwellers was obtained by fraud or coercion, in my opinion, Appellate Authority was justified in passing the order impugned.

9] In the aforesaid backdrop, no case for interference is made out. Petition as such fails and same stands dismissed.

10] The interim protection granted by this Court is extended by two weeks.

(NITIN W. SAMBRE, J.)