

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4936 OF 2021

Raju Venkatesh Nadar

..Petitioner

V/s.

The Grievance Redressal Committee
and Ors.

..Respondents

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Mr. Suhas Deokar a/w Atmaram Patade, Manisha Thorat, Suraj Naik for the Petitioner.

Mr. P.P. Pujari, AGP for Respondent Nos. 2, 3 and 7/State.

Mr. Chetan Alai a/w Rama Somani for Respondent No.5.

Mr. Jagdish Aradwad(Reddy) a/w Abhijit Patil for Respondent No.6.

CORAM : C.V. BHADANG, J.

DATE : 19 OCTOBER 2022

:JUDGMENT:

. Rule made returnable forthwith. The learned AGP waives service for Respondent Nos. 2, 3 and 7. Mr. Jagdish Aradwad(Reddy) waives service for contesting Respondent No.6, Chief Executive Officer, Slum Rehabilitation Authority (CEO/SRA). Heard finally by consent of parties.

2. The Petitioner claims to be occupying the concerned hut on the basis of the agreement dated 24.10.1994. According to the Petitioner, the Respondent No.4 society as well as Developer are supporting the case of the Petitioner, insofar as the eligibility of

the Petitioner is concerned. He points out that as per GR dated 16.05.2015, the structure as well as the occupant as on 01.01.2000 are protected. He states that the Petitioner wants to produce additional documents in support of the claim of eligibility.

3. Mr. Aradwad (Reddy), the learned counsel for the Respondent No.6 CEO/SRA in all fairness states that if the Petitioner is intending to produce additional documents, he has no objection to remit the matter back to the Competent Authority.

4. The learned counsel for the Petitioner has pointed out an order dated 23.09.2022 passed by this Court, in Writ Petition No. 9261 of 2021 by which in similar circumstances, the Petitioner therein was granted liberty to approach the competent authority afresh. The learned counsel for the Petitioner has therefore, sought a similar order.

5. I have considered the submissions made.

6. The challenge in this petition is to the order dated 05.02.2020 passed by the first Respondent-Grievance Redressal Committee by which Appeal No. 40 of 2019 filed by the Petitioner came to be rejected thereby confirming the order passed by the Additional Collector dated 30.01.2019. The

authorities below have found that there is no provision for transfer of hut contained in GR dated 16.05.2015.

7. The learned counsel for the Petitioner has also pointed out that the observations by the Grievance Redressal Committee in its order dated 05.02.2020 that the Appellant is purchaser of the structure after issuance of Annexure-II is factually incorrect. He states that the Petitioner has purchased the hut in the year 1994 and Annexure – II was prepared in the year 1997.

6. Be that as it may. Considering the concession on behalf of Respondent No.6 and order passed by this Court on 23.09.2022 in Writ Petition No.9261 of 2021 in similar circumstances, the following order is passed:

ORDER

(i) The petition is allowed.

(ii) The impugned order dated 30.01.2019 passed by the Additional Collector (E/R) and the Appellate Authority, Mumbai and the order dated 05.01.2020 passed by Respondent No.1 Grievance Redressal Committee in Appeal No. 40 of 2019 are hereby set aside.

(iii) The Petitioner is granted liberty to file appropriate application before the Competent Authority-SRA for

deciding the eligibility of the Petitioner under Section 3 of the Maharashtra Slum Areas (Improvement, Clearance and Rehabilitation) Act, 1971 in accordance with GR dated 16.05.2015 read with GR dated 16.05.2018.

(iv) If such an application is filed within a period of four weeks from today, the Competent Authority shall decide the same within a period of three months from the date of filing of the application.

(v) The rival contentions as far as the eligibility of the Petitioner are concerned, are left open.

In the circumstances, there shall be no order as to costs.

C.V. BHADANG, J.