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

WRIT PETITION NO. 9261 OF 2021

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Ivan Shantraj Belli

...Petitioner

Versus

The Grievance Redressal Committee & Ors.

...Respondents

Mr. Prashant D. Patil, for the Petitioner.

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

Mr. Abhijit Kulkarni, for the Respondent No. 6.

CORAM : MADHAV J. JAMDAR, J.

DATED : 23rd SEPTEMBER 2022

P.C. :

1. Heard Mr. Patil, learned counsel appearing for the Petitioner, Mr. Abhijit Kulkarni, learned counsel appearing for the Respondent No. 6 and Mr. Pujari, learned AGP for the Respondent Nos. 2, 3 and 7-State.

2. Mr. Patil submitted that the Petitioner is occupying the concerned hut on the basis of agreement dated 12th November 1996.

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He submitted that the Respondent No.4-society as well as Respondent No.5-developer are supporting the case of the Petitioner. He further submitted that as per GR dated 16th May 2015, both the structure and occupants as on 1st January 2000 are protected. Learned counsel for Petitioner further states that Petitioner wants to produce additional documents. He therefore, submitted that impugned order be quashed and set aside and the matter be remanded back to the competent authority-SRA.

3. Mr. Kulkarni, learned counsel for the Respondent No.6 submits that as the Petitioner is intending to produce additional documents, he has no objection to remand the matter.

4. Perusal of the impugned order dated 30th January 2019 passed by the Respondent No.2-the Additional Collector (E/R) & Appellate Authority, Mumbai City shows that the claim of the Petitioner was rejected on the ground that in the Government resolution dated 16th May 2015, there is no provision for transfer of the hut. However, perusal of GR dated 16th May 2015 shows that the cut off date is 1st January 2000 for the hut to be recognized as protected hut as well as

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for recognizing the occupant as protected. Therefore, as the authorities have proceeded on incorrect assumption, it is necessary to quash and set aside the order dated 5th February 2020 passed by the Respondent No.1- the Grievance Redressal Committee in Appeal No.37 of 2019 as well as order dated 30th January 2019 passed by the Respondent No.2-the Additional Collector (E/R) & Appellate Authority, Mumbai City in Appeal No.86 of 2015.

5. Mr. Kulkarni, learned counsel appearing for Respondent No.6 at this stage submits that instead of remanding the matter back to the the Additional Collector (E/R) & Appellate Authority, Mumbai City, it will be appropriate, if the Petitioner is granted leave to file appropriate application before the Competent Authority, SRA for deciding the eligibility of the Petitioner. In view of this, following order is passed:-

ORDER

(a) Order dated 30th January 2019 passed by Respondent No.2 the Additional Collector (E/R) & Appellate Authority, Mumbai City in Appeal No.86 of 2015 and order dated 5th February 2020 passed by Respondent No.1- the Grievance Redressal Committee, Mumbai in

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Appeal No.37 of 2019 are quashed and set aside.

(b) The Petitioner is granted opportunity to file appropriate application before the Competent Authority, SRA for deciding the Petitioner's eligibility under section 3 of the Slum Rehabilitation Act and in accordance with G.R. dated 16th May 2015 read with GR dated 16th May 2018.

(c) If such application is filed within four weeks from today, the Competent Authority, SRA to decide the said application within a period of three months from the date of filing of the application.

(d) All contentions raised by the parties as far as eligibility of the Petitioner is concerned, are expressly kept open,

6. Writ Petition is disposed of in the above terms with no order as to costs.

MADHAV J. JAMDAR, J.