

Shiv

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

WRIT PETITION NO.14605 OF 2022

Vasant Kondiram Waragade

... Petitioner

Vs.

The Tahsildar-2,
SRA and Ors

... Respondents

Ms. Nilima C. Sarvagod i/b Mr. Ashwin S. Tripathi for the Petitioner.
Ms. Geeta R. Shastri with Mr. Amit Shastri for Respondent No.1-SRA.
Mr. Kanhaiya S. Yadav with Mr. Ankit S. Dubey for Respondent No.3.

CORAM : S. M. MODAK, J.

DATED : 25TH NOVEMBER 2022.

P.C:-

1. Heard learned counsel for the parties.
2. Urgent circulation is sought as the Tahsildar-2 has issued notice dated 21st November 2022, thereby asking the addressees to handover possession of the huts within 48 hours. One Mr.Dikuna Manoda is described at Serial No.7. The Petitioner claims that in fact he is in possession of hut standing in the name of Dikuna Manoda.
3. There are various objections taken about not challenging that notice and Writ Petition ought to have been filed before the Division Bench of this Court. In fact this Writ Petition was filed in hurry and due to urgency, circulation is sought. During oral arguments, learned Advocate for the Petitioner submitted that in fact they have preferred an Appeal against decision dated 3rd November 2022, passed by the

learned Tahsildar before the Apex Grievance Redressal Committee (for short "AGRC") i.e. Respondent No.4 and in fact they have moved before the committee on 11th November 2022, but their matter could not be taken up. It is their further contention that the said committee is available only twice a month on every Friday. After 11th November 2022, today, the committee was supposed to sit but the committee is not available and will be available on 2nd December 2022. In view of this urgency, they have filed this Petition. All these facts are mentioned in clause No. (f).

4. Prayer is for quashing the impugned order dated 3rd November 2022 and notice dated 21st November 2022. Admittedly, when the Appeal is pending, such relief cannot be granted. So the relief is restricted only to issue necessary directions to the committee to decide their Appeal.

5. Learned Advocate for the Petitioner invited my attention to the observations of the Tahsildar-2 at page 47. They have filed intervention application thereby mentioning even though the name of Dikunda Manoda is mentioned that hut at Serial No.36 in Annexure-II, in fact belongs to them,. It is further their case that they have filed application before the Competent Authority-7 of SRA on 28th June 2022, and in fact survey is also conducted. Relevant papers are at page A and B. It shows that panchnama has been conducted by the concerned authorities and the name of the Petitioner is mentioned in front of Serial No.36. According to the Petitioner, now it is not further processed because it is pending for verification including consumer of electricity and it will be processed finally within few weeks.

6. When the impugned order is perused, we may find that apart from other hut occupiers, the occupier of hut no.10, Dikuna Manoda is also directed to remove hut, however, while issuing direction to pay cheque towards rent, his name is deleted. Learned Advocate for the Respondents are right in their submission that the name of the Petitioner is not mentioned in Annexure-II and it is for the Petitioner to get it corrected.

7. When this Court has expressed an opinion that certain reliefs can be granted to the Petitioner till 2nd December 2022, learned Advocate for Respondent No.3 expressed desire to pay rent for six months to the Petitioner without prejudice to their contentions and on humanitarian ground and it is only for the reason that further development work should not be hampered. This Court has expressed that opinion only for the reason that aggrieved person should not have been denied of approaching authority.

8. The grievance is that said forum is not sitting continuously. On the desire expressed on behalf of Respondent No.3, learned Advocate for the Petitioner has his own grievance. According to them, the payment should be made till the time his eligibility is decided. Learned Advocate for the Respondent No.3 is having strong objection. I am inclined to accept the readiness shown on behalf of Respondent No.3. Even though the application is pending before the Competent Authority-7 and even if it is positively decided, ultimately, what will be rights ? These rights may be only rights as observed by the Tahsildar that is to say get the rent. When learned Advocate for Respondent

No.3 had already shown readiness to pay rent certainly it can be accepted. In view of this following order is passed :

O R D E R

- (a) In view of that Respondent No.3 is directed to deposit the rent for six months at the rate awarded to other occupants as per the impugned order.
- (b) The rent should be paid to the Petitioner in his bank account of which details be given to learned Advocate for Respondent No.3 within three days from today.
- (c) Respondent No.3 to transfer the rent for six months within seven days thereafter subject to handing over peaceful and vacant possession by the Petitioner of hut in his occupation.
- (d) If possession of the hut is not handed over, the SRA is at liberty to take appropriate steps.
- (e) The Petitioner is at liberty to request the AGRC – Respondent No.4 to decide the Appeal as early as possible and if such request is made, it shall be considered positively.
- (f) Further arrangement about future rent will depend upon outcome of the Appeal and eligibility of the Petitioner to be decided by the Competent Authority-7.

In view of above, the Writ Petition is disposed of.

(S. M. MODAK, J.)