

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

APPEAL FROM ORDER NO.1107 OF 2022

Shree Santoshi Maa

...Appellant

Versus

The Assist. Commissioner, K/West
Ward, Mumbai.

...Respondent

...

Ms Anita Dwivedi i/b. Mr. Pawan K. Pandey and Associates for the
Appellant.

Mr. Pravin Samdani, senior counsel with Mr. Sahil Saiyed for
Respondent No.1.

Mr. Santosh D. Patil with Mr. Prithviraj S. Gole for Respondent No.2-
SRA.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 5th DECEMBER, 2022.

P. C. :-

1. This appeal assails order dated 23/11/2022 whereby the learned Judge, City Civil Court, Greater Bombay, Dindoshi Division at Borivali, dismissed the notice of motion filed by the Appellant-Plaintiff in S.C. Suit No.219 of 2022.

2. The dispute is in respect of temple situated in property admeasuring 237.78 sq.mts. Being part of Survey No.27, Hissa No.8/A(Pt) of village Kandivali. The Appellant claims that the said property has been illegally included in slum scheme and sought to

restrain the Defendants from demolishing the temple. Learned counsel for the Appellant states that the temple has been demolished during pendency of the appeal.

3. It is to be noted that the property under CTS No.1327 has been declared as slum area. The proposed society appointed Respondent No.1 as Developer for development of the said land and implementation of the slum scheme. The SRA has issued LOI in respect of CTS No.1327 and upon obtaining necessary approval, the SRA issued commencement certificate.

4. The Plaintiff is held to be ineligible in Annexure II. By order dated 17/06/2022, the *Sevadars* of the Appellant-temple have been directed to hand over vacant possession of the land. The request of the Appellant to exclude the temple property has been rejected. The appeal filed before the Apex Grievance Redressal Committed (AGRC) has been dismissed. The temple has been demolished during the pendency of the appeal. Hence nothing further survives.

5. Mr. Samdani, learned senior counsel, who is representing Respondent No.1-owner/Developer makes a statement that the

Appellant can furnish documents before the Slum Authority to prove its eligibility. He submits that even if the Appellant is held to be ineligible, Respondent No.1 shall construct the structure as per the area mentioned in Annexure-II from free sale component. Learned counsel for the Appellant states that the offer given by Respondent No.1 is not accepted to her. Prima facie it appears that the Appellant is interested in stalling the project. It is stated that 158 slum dwellers have already vacated the premises. The project cannot be stalled on baseless claim. The appeal has no merits and is accordingly, dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)