

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.287 OF 2023

Late Rukuminibai Ravaji Nargoliya Deceased ... Petitioners
through LHR Arvind Ravji Nargolia & Ors.

Versus

Slum Rehabilitation Authority & Ors. ... Respondents

Mr.Makrand Kale i/b. Mr.Yogesh Sankpal with Praveen Tiwari, for the
Petitioners.

Ms.Uma Palsuledesai, for Respondent Nos.1 & 2 -SRA.

CORAM: G. S. KULKARNI, J.
DATED: JANUARY 07, 2023

PC.

1. Heard Mr.Kale, learned Counsel appearing on behalf of the petitioners and Ms.Palsuledesai, learned Counsel appearing on behalf of the respondent Nos.1 and 2 – Slum Rehabilitation Authority.

2. This petition assails an order dated 18 November 2022 passed by Tahasildar – I, Special Cell, Slum Rehabilitation Authority being an order passed under Section 33 read with Section 38 of the Maharashtra Slum Areas (Improvement, Clearance And Redevelopment) Act, 1971 (for short '**the Slum Act**'), whereby the petitioners have been directed to hand over possession of their respective structures. The petitioners have already approached the Appellate Authority namely the Additional Collector in an appeal (Appeal Nos. 2017, 2018, 2019 and 2020 of 2022). These appeals are pending before the Additional Collector. The contention of the petitioners is that the notice under Section 33 read with Section 38 of the Slum Act was issued against dead persons.

However, it appears from the record that the petitioners in the capacity as legal heirs have contested the proceedings. They have also filed appeals. As the substantive appeals are pending, the issues as urged in the writ petition ought not to be gone into. The petitioners are permitted to move an appropriate application for any interim reliefs, in the appeals.

3. The petition, therefore, cannot be entertained and is required to be disposed of permitting the petitioners to urge all contentions in the pending appeals. The petitioners shall move the Appellate Authority by an appropriate application within one week from today. To enable the petitioners to move the Appellate Authority, the respondent-authority shall not take any coercive steps against the petitioners for a period of two weeks from today, if already not taken.

4. In the event, the petitioners do not move the Appellate Authority within one week as directed, such protection shall not be available to the petitioners.

5. Needless to observe that the Appellate Authority shall decide any application of the petitioners or the appeal itself on its own merits and without being influenced by the limited protection granted by this order. It is further clarified that the said protection has been granted only to enable the petitioners to move the Appellate Authority, without examining the rival contentions.

6. All contentions of the parties before the Appellate Authority are expressly kept open.

7. Disposed of in the above terms. No costs.

(G. S. KULKARNI, J)