



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

WRIT PETITION NO.10275 OF 2023

Prabhunarayan Ramcharan Tiwari
since deceased through legal heirs
Shri. Shashikant Prabhunarayan Tiwari ...Petitioner
Versus
Shri. Prakash Bhagwatiprasad Jaiswal & Ors. ...Respondents

Mr. Sandeep Mishra, for the Petitioner.

Mr. A. P. Vanarase, AGP for the State/Respondent No.3.

**CORAM : MADHAV J. JAMDAR, J.
DATED : 1st SEPTEMBER 2023**

P.C. :

1. Heard Mr. Sandeep Mishra, learned counsel appearing for the Petitioner and Mr. A. P. Vanarase, learned AGP, appearing for Respondent No.3.
2. By the present Writ Petition, the Petitioner is challenging the order dated 15th December 2022 passed by the Grievance Redressal Committee, Thane City in Appeal No. SR-03 of 2022. In the said appeal, which has been filed under Section 35 (1A) of the Maharashtra Slum Areas (Improvement, Clearance and

Redevelopment) Act, 1971 (hereinafter referred to as “**the Slum Act**”), the challenge was to the legality and validity of the order dated 30th November 2021 passed in appeal by the Additional Collector, Thane. By the said order dated 30th November 2021, the Appellate Authority i.e. the Additional Collector, Thane dismissed the appeal filed by the present Petitioner and upheld the Annexure-II, wherein Respondent No.1 is declared as eligible. Thus, by Annexure-II it is held that the Respondent No.1 is eligible and the same is upheld by all the Authorities. All the Authorities while upholding the eligibility of the Respondent No.1 has relied on Voter’s Identity Card dated 20th November 1994 and electoral roll. It is the submission of Respondent No.1 before all the Authorities that he is residing in said hut since 1986.

3. It is significant to note that the present Petitioner himself has filed Regular Civil Suit No.610 of 2011 against Respondent No.1 seeking possession. It is the contention of learned counsel appearing for the Petitioner that the documents produced are of some different premises. However, all the Authorities have concurrently held that the Respondent No.1 has proved his

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eligibility on the basis of document with respect to the premises in question. In the context of submission of the Petitioner that the suit premises in the said suit is different, it has been further held that in any case, as per Slum Rehabilitation Policy, only actual occupant has right and admittedly the Petitioner is not staying in the suit premises, which is the subject matter of the suit, assuming the same to be the slum structure in question. In any case, all the Authorities on the basis of documentary evidence held that the Respondent No.1 is eligible slum dweller as far as the structure which is the subject matter of the Annexure-II. It has been held that the said Civil Suit is not relevant. Therefore, this is not a case where interference of this Court under Article 226 of the Constitution of India is warranted.

4. Accordingly, the Writ Petition is dismissed, however with no order as to costs.

[MADHAV J. JAMDAR, J.]

Note: This order is modified as per order dated 11th September 2023. The corrections are shown in paragraph No.3.