

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 13775 OF 2023

Kakade Balasaheb Baliram & Ors ...Petitioners
Versus
Slum Rehabilitation Authority Pune And Pimpri
Chinchwad Area Pune & Ors ...Respondents

Mr SR Nargolkar, i/b Arjun Kadam, for the Petitioners.
Mr Deepak R More, with Shivram A Gawade, for Respondents Nos. 1 & 2.
Mr Shashikant Surana, with Madhur Surana, Ms Pranganga Barua & Swarupini Srinath, i/b Crawford Bayley & Co, for Respondent No. 3.

**CORAM G.S. Patel &
Kamal Khata, JJ.**
DATED: 8th November 2023

PC:-

1. Heard.
2. We are not inclined to entertain this Petition. The prayers (b), (c) and (d) of the Petition read as follows:

“(b) Issue a writ of certiorari or any other writ of such nature thereby quashing and setting aside order dated 17.10.2023 passed by the Apex Grievance Redressal Committee, Mumbai in Appeal No. 140 of 2023 [Exhibit –

M hereto], order dated 23.05.2023 passed by the Respondent No. 2 – Competent Authority [Exhibit - C hereto] and Notice dated 21.03.2023 [Exhibit - A hereto] passed by the Respondent No. 1 – Slum Rehabilitation Authority, Pune.

(c) Issue a writ of mandamus or any other writ of such nature thereby directing the Respondent No. 1 and 2 to conduct measurement and ascertain the boundaries of land bearing Survey No. 124, Hissa Nos. 6, 7 and 8, and Survey No. 124/283 of Mundhwa, Hadapsar, Pune, and thereby declare that the Gazette Notification dated 05.07.1984 excludes the writ land i.e. Survey No. 124/283, of Mundhwa, Hadapsar, Pune.

Without prejudice to prayer clauses (a), (b) and (c) above, but in alternative thereto;

(d) Issue a writ of mandamus or any other writ of such nature thereby quashing and setting aside order dated 17.10.2023 passed by the Apex Grievance Redressal Committee, Mumbai in Appeal No. 140 of 2023 [Exhibit - M hereto], order dated 23.05.2023 passed by the Respondent No. 2 – Competent Authority [Exhibit - C hereto] and Notice dated 21.03.2023 [Exhibit - A hereto] passed by the Respondent No. 1 – Slum Rehabilitation Authority, Pune, and thereby direct the Apex Grievance Redressal Committee, Mumbai – Respondent No. 4 to grant a fresh hearing and consideration to the Petitioners by restoring Appeal No. 140 of 2023 to file.”

3. The first challenge to the AGRC Appellate order of 23rd May 2023 must fail. The Apex Grievance Redressal Committee (“AGRC”) correctly held that these Petitioners have no locus to sustain any such appeal. Prayer (b) then assails a Gazette

Notification dated 5th July 1984 to the extent that it purports to include Survey No 124/283 of Mundhwa-Hadapsar Pune.

4. Now the owner of the land is Respondent No 3 represented by Mr Surana. The entire strip of land of Survey No 124 Hissa Nos 6, 7 and 8 was entirely the property of Respondent No 3. Of this, Hissa Nos 6 and 7 were entirely encroached. We are concerned only with Hissa Nos 6 and 7. The land is shown in a sheet handed over to us and is also seen at page 182A. The entire reference is based on a map at page 182A as if to suggest that the portion shown in green is not included in Survey No 124/6 and 124/7. The Slum Notification at page 61 clearly includes Survey No 124/6 and 124/7. This is also evident from a 2012 Survey Map which is given to us. Mr Surana points out that in fact this is also clear from page 184 which shows the boundaries of the plot, the adjacent canals, and the calculation of the area statements.

5. Nobody is able to explain how the Petitioners have derived this number 283 except for a general statement in the Petition and across the Bar. It is not reflected in any plan or document that some of the Petitioner's structures are on S. No. 124/283. Mr Nargolkar is unable to point out from any of the documents annexed to the Petition how this number is Prima facie it is difficult to believe that the green shaded portion must be S No 124/283 because all the adjacent plot numbers have continuous and contiguous sequential numbering. How "283" is suddenly produced is unexplained. Even the document at page 182A shows that the entire green-shaded portion, where Mr Nargolkar claims the Petitioners' structures are

located, is entirely covered by slums. All that is argued is that this 'map' or 'plan' shows the green area as an 'undeclared slum'. But if the green area is Survey No 124/6 or S No 124/7, then it is demonstrably covered by the Notification we have seen. A map or plan cannot override a Notification.

6. A dispute as to actual location would, in any case, require an investigation into facts, evidence and so forth. This is cannot be examined in our writ jurisdiction. It is not possible for the Petitioners to claim exclusion from a Slum Notification simply by citing some unknown survey number without being able to point precisely to its provenance or how they come to ascribe that survey number to the land. Nor is it permissible to claim that some survey map serves to modify a Notification.

7. We will not lose sight of the fact that these Petitioners before us are all in their inception in illegal and unauthorised occupation of portions of land, though privately held. This will not give them the kind of rights that they seek for continuance in unauthorised occupation in slum-like conditions.

8. We see no merit in the Petition. It is rejected.

9. In view of the intervening holiday season and festivities we direct the authorities not to take any action on demolition as we have done for all other Corporations and authorities who are within our roster assignment at present until 20th November 2023.

10. The plan submitted by the Slum Rehabilitation Authority is taken on record and marked “X-1” for identification with today’s date.

11. Mr Nargolkar seeks a stay. The application is rejected.

(Kamal Khata, J)

(G. S. Patel, J)