

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

WRIT PETITION NO.15350 OF 2023

Shiv Shankar Gupta	...Petitioner
Versus	
The Additional Collector (ENC & R.)	
Western Suburbs & Ors.	...Respondents

Mr. Karan S. Thorat, for the Petitioner.

Mr. Rudresh Jagdale, for Respondent No.2.

Mr. Jagdish G. Aradwad (Reddy), for the SRA.

Mr. P. P. Pujari, AGP, for the State.

CORAM : MADHAV J. JAMDAR, J.

DATED : 18th DECEMBER 2023

PC. :

1. Mr. Thorat, learned Counsel appearing for the Petitioner points out the Judgment and Decree dated 18th September 2023 passed by the learned Judge, Small Causes Court at Bombay, Bandra Branch in R.A.E. & R. Suit No.267/664 of 2005. He states that in the said suit, it is the contention of the Respondent No.2 that the Petitioner is in possession of the suit property since 1st July 1996 as licensee and thereafter, the same is converted into monthly tenancy from 1st

August 2000. He fairly states that the eviction decree as passed by the learned Trial Court is confirmed upto the Supreme Court. However, he submits that the Petitioner is admittedly in possession of the said structure since 1st July 1996 and, therefore, he is eligible. He submits that the authorities under the *Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971* (“**Slum Act**”) are required to verify the occupation of the Petitioner as on 1st January 2000 to consider Petitioner’s eligibility. He submits that the Appeal filed by the Petitioner under the Slum Act is pending before the Respondent No.1-the Additional Collector (ENC & R), Western Suburbs, Mumbai alias the Competent Authority.

2. Mr. Rudresh Jagdale, learned Counsel appearing for Respondent No.2 submits that eviction decree has been passed and the same has been confirmed upto the Supreme Court. He submits that the Appeal under the Slum Act is filed belatedly. He submits that the Respondent No.2 is not made party to the proceedings before the Respondent No.1.

3. However, Mr. Thorat, learned Counsel appearing for the Petitioner states that only issue which is to be decided by the Respondent No.1 is whether the Petitioner was in occupation before

1st January 2000 and prayed that till disposal of his statutory Appeal, no coercive steps be taken.

4. Mr. Thorat, learned Counsel appearing for the Petitioner states that in the said proceedings, the Respondent No.2 will be impleaded as party.

5. At this stage, on instructions, learned AGP states that the Appeal No.181 of 2023 filed under Section 35 of the Slum Act pending before the Respondent No.1-Additional Collector (ENC & R), Western Suburbs, Mumbai alias the Competent Authority will be decided within a period of four weeks from today. Learned AGP states that the said Appeal is coming up for hearing before the Respondent No.1-Additional Collector (ENC & R), Western Suburbs, Mumbai alias the Competent Authority on 19th December 2023.

6. Accordingly, the Writ Petition is disposed of by issuing the following directions:-

- i. The contesting parties i.e., Petitioner and Respondent No.2 and all concerned to appear before the Respondent No.1-Additional Collector (ENC & R), Western Suburbs, Mumbai alias the Competent Authority on 19th December 2023.
- ii. The Respondent No.1-Additional Collector (ENC & R), Western

Suburbs, Mumbai alias the Competent Authority to decide
Appeal No.181 of 2023 on or before 31st January 2024.

- iii. Till the disposal of the said Appeal, the possession of the
Petitioner shall not be disturbed and no coercive steps be taken
in that behalf.
- iv. It is clarified that this Court has not considered the merits and
all contentions on merits are expressly kept open.

[MADHAV J. JAMDAR, J.]