

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 1083 OF 2017

Vijay Nagar Co-Operative
Housing Society Ltd. and Anr. ... Petitioners
Versus
The State of Maharashtra and Ors. ... Respondents

Mr. Ali Bubere a/w Mr. Mujtaba Shaikh for the Petitioners.
Mr. Amit Shastri, AGP for the State/Respondent No. 1.
Ms. Pooja Yadav for MCGM.
Mr. Karan Gajra a/w Mr. Vijay Singh i/b Desai Legal for SRA.
Mr. I. K. Tripathi i/b Akshita Kohli for Respondent No. 6.

**CORAM : G. S. KULKARNI &
R. N. LADDHA, JJ.**

DATE : 25th APRIL, 2023.

P.C. :-

1. We have heard learned Counsel for the petitioners and also learned Counsels for the respondents.

2. The prayers as made in the petition read thus :-

“(a) This Hon’ble Court be pleased to issue the Writ of Mandamus or the appropriate writ against the respondent no. 6 directing the Management, Principal and the office bearers of respondent no. 6 to demolish and remove the illegal wall installed between the “Mukund Rao Ambedkar Marg” on one side and Vijay Nagar Co-operative Housing Society Ltd. (proposed) on the other

side of the said illegal wall.

(b) This Hon'ble Court be pleased to issue the Writ of Mandamus or the appropriate writ against the respondent nos. 3 to 5 to demolish and remove the illegal wall installed between the "Mukund Rao Ambedkar Marg" on one side and Vijay Nagar Co-operative Housing Society Ltd. (proposed) on the other side of the said illegal wall.

(c) Pending the hearing and final disposal of the present writ petition this Hon'ble Court be pleased to direct the respondent no. 2 to issue the necessary permission for redevelopment of the suit property in case the respondent no. 2 is satisfied about the compliance of all the requirements other than the suit road and the wall.

(d) Pending the hearing and final disposal of the present writ petition this Hon'ble Court be pleased to direct the respondent nos. 3 to 5 forthwith demolish and remove the illegal wall installed between the "Mukund Rao Ambedkar Marg" on one side and Vijay Nagar Co-operative on the other side of the said illegal wall.

(e) Such further and other reliefs as the nature and circumstances of the case may warrant be granted to the petitioners.

(f) The petitioner be awarded the cost of the present writ petition."

3. It appears that petitioner no. 1 is a society of slum dwellers. The petitioners are interested to develop the slum area. It is stated that petitioner no. 1 has been granted permission to undertake a slum redevelopment scheme.

4. The case of the petitioners is that respondent no. 6 has undertaken illegal construction and such illegal construction is infact on the slum land, in respect of which the petitioners intend to undertake a slum redevelopment scheme. Respondent No. 2 is the Chief Executive Officer of the Slum Rehabilitation Authority. Admittedly, the petitioners are the members of proposed slum society. The owner of the land appears to be the State Government.

5. The petitioners have raised a dispute in regard to the ownership of land asserting that respondent no. 6 has infact undertaken construction, which is on the government land. It is for the owners of land i.e. the State Government to look into such issue and take up the matter with the Slum Rehabilitation Authority.

6. It is certain that the prayers made in the petition and more particularly, the prayer clause (a), being against respondent no. 6, which is not a 'State' within a meaning of Article 12 of the Constitution of India, cannot be entertained. We are also not in a position to entertain the relief as sought in relief clause (b). We accordingly dismiss the petition. No costs.

[R. N. LADDHA, J.]

[G. S. KULKARNI, J.]