

Ashwini

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 3862 OF 2022**

Ashok Ramchandra Warse Chief Promoter of ...Petitioner
Waraslane SRA CHS (Proposed)
Versus
State of Maharashtra & Ors ...Respondents

**Dr Milind Sathe, Senior Advocate, with Bhushan Deshmukh,
Mukul Taly, Sayali Gharpure & Widisha Agarwalla, i/b S
Mahomedbhai & Co, for the Petitioner.**

Ms Dhruti Kapadia, for Respondent No. 1-SRA.

Mr Sagar Patil, for the Respondent-MCGM.

**Ms Reshma Chitnis, with Nakul Jain, i/b Chitnis Vaithy & Co, for
Respondent No. 21.**

Mr PG Lad, with Shreya Shah, for Respondents Nos. 42 & 43.

**Mr Amit Shastri, AGP, with Hemant Haryan, AGP, for the
Respondent-State.**

**CORAM G.S. Patel &
Neela Gokhale, JJ.**

DATED: 17th April 2023

PC:-

- 1. This Petition needs to be disposed of on a simple point.**
- 2. Rule.**

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3. The impugned order at Exhibit “B” of the Petition is of 9th June 2022. It rejected the Petitioner’s application for declaration of a certain portion of land as a slum under Section 3(C) of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act 1971.

4. The limited point is that the person who passed the order, the then CEO of the Slum Rehabilitation Authority (“SRA”) is not the person who heard the matter or the parties. The issuing authority had posted the application on 26th April 2022. By a notice of 22nd April 2022 he cancelled that hearing (there are reasons given in the Petition but these need not detain us) and then proceeded to pass the order in question on the basis of a hearing by his predecessor.

5. Fundamentally, this seems to us to be unsustainable because it is well settled that it is who hears that must decide. It would have been acceptable if the CEO had heard parties afresh himself before passing the order. But there is no possibility of him passing an order on the basis of a hearing conducted by his predecessor. This branch of the law is well settled in *Rasid Javed and Ors v State of Uttar Pradesh and Anr*¹ and *Union of India and Ors v Shiv Raj and Ors*,² and, of course, *Gulapalli Nageshwar Rao v AP SRTC*.³

6. In the circumstances, Rule is made absolute. The order at Exhibit “B” of 9th June 2022 is quashed and set aside.

1 (2010) 7 SCC 781,

2 (2014) 6 SCC 564.

3 AIR 1959 SC 308.

7. The Petitioners' application for a Section 3(C) declaration is restored to file. All contentions are kept open. We have not examined the matter on merits. The CEO of SRA will hear both sides and will pass an appropriate order after hearing all concerned, ensuring that the person who hears passes the order. This is to be done as soon as possible and preferably within six weeks from today.

8. The Petition is disposed of in these terms. No costs.

(Neela Gokhale, J)

(G. S. Patel, J)