

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

WRIT PETITION NO. 3829 OF 2021

Mr. Shrikant Hariba Bhosale

...Petitioner

Vs.

Grievance Redressal Committee & Ors.

...Respondents

Dr. Uday P. Warunjekar for Petitioner.

Mr. Amit Shastrai, AGP for State- Respondent Nos.1 & 2.

Ms. Rui Danawala i/by Mr. Umesh Mankapure for Respondent No. 3-SRA.

CORAM : ARIF S. DOCTOR, J.

DATE : 9th March, 2023

P.C. :

1. The present Writ Petition impugns an order dated 21st November 2019, passed by Respondent No. 1 (the Grievance Redressal Committee) dismissing the Petitioner's Appeal filed under Section 35 (1A) of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (the Slums Act).

2. By the impugned order the Petitioner's ineligibility to be included in Annexure-II prepared in respect of the Slum Rehabilitation Scheme being

implemented at CTS No.223A(1) part of Village-Goregaon, Taluka-Borivali of Mumbai Suburban District has been upheld.

3. The Petitioner claims to be eligible for being included in Annexure II since the Petitioner's has purchased Shop No.3 in Jayshri Singh Chawl, Ghaas Bazaar, Ram Mandir Road, Goregaon (East), Mumbai-400 063 vide an Agreement for Sale dated 16th July, 2003, from one Mr. Harishankar S. Vyas (the Petitioner's Vendor). The Petitioner's Vendor appears to have owned several shops/units in the said Jayshri Singh Chawl, one of which was Shop No.3. The Petitioner has relied upon Electricity Consumer No. A27010702 to claim eligibility in terms of the Government Resolution dated 16th May 2015.

4. Mr. Warunjikar, learned counsel appearing on behalf of the Petitioner submitted that there was no doubt that based upon the said Agreement for Sale, the Petitioner was owner of Shop No. 3. He then pointed out that there was also no dispute that the electricity consumer number A27010702 initially stood in the name of the Petitioner's Vendor and that the same now stands transferred to the Petitioner's name. Learned Counsel invited my attention

to the meter reading of electricity consumer number A27010702 and pointed out that the same was in existence from at least February 1999 i.e. prior to 1st January, 2000 which was the extended cutoff date to determine eligibility as per the Government Resolution dated 16th May, 2015.

5. Learned Counsel fairly contended that while electricity bill did not expressly mention Shop No.3 the fact that the same pertained to Shop No.3 was evident/implicit from the fact that (i) the Petitioner had purchased Shop No.3 from the Petitioner's Vendor (ii) that the Petitioner's Vendor had subsequently transferred the Consumer No. A27010702 to the Petitioner's name, and (iii) that no other individual/entity had claimed eligibility based on this consumer number.

6. He submitted that the Respondents had completely misdirected themselves in holding that the documents produced by the Petitioner, pertained to Shop No.1 or Room No.1 and not Shop No.3. He submitted that it was wholly inequitable that the Petitioner was deprived of his statutory right to rehabilitation without a proper inquiry as also giving the Petitioner adequate

opportunity to establish that the said Electricity Consumer No. A27010702 pertained to Shop No.3.

7. Learned Counsel submitted that it was nobody's case that the same consumer number had been claimed by anybody or that eligibility of anyone had been determined based thereon. He thus submitted that the impugned order was bad in law as Respondent No.1 had failed and neglected to properly construe and determine the facts of the case.

8. *Per contra* Mr. Shastri, learned AGP appearing on behalf of the Respondent No.1 and 2 opposed the present Petition. He submitted that the impugned order was a well-reasoned order and had been passed after giving the Petitioner a detailed opportunity of being heard. He then invited my attention to the Affidavit in Reply filed by Respondent No. 2 and pointed out therefrom that the Petitioner had failed to establish the existence of Shop No.3 prior to the cutoff date of 1st January 2000. He also pointed out that the Petitioner's Vendor was not occupying Shop No.3 for any commercial purpose as on 1st January 2000 till 2007 but was occupying Shop/Room No.1 as per the

Gumasta License and other documents.

9. In view of this he submitted that the Petitioner had failed to establish that Shop No.3 existed on site prior to 1st January 2000. He submitted that the documents relied upon by Petitioner did not show that the Petitioner occupying Shop No.3 prior to 1st January 2000 as also the Petitioner's Vendor was occupying Shop No3 prior to 1st January 2000. He submitted that the only documents on record were in respect of Shop/Room No.1 and not Shop No.3.

10. Ms. Danawala learned Counsel appearing on behalf of Respondent No.3 supported the submissions made by learned AGP and contended that the order did not warrant any interference. She submitted that there were concurrent orders passed by the authorities on findings of fact and there was no reason for this Court to unsettle the same in the present Writ Petition.

11. I have heard learned counsel, perused the copy of the Writ Petition, and annexures thereto. I have also considered the stand taken in the various Affidavits. In the facts of the present case there is no doubt that the Petitioner has produced an Agreement for Sale dated 16th July 2003 for Shop No.3 on from

Mr. Harishankar S. Vyas. The Petitioner has also produced Electricity Consumer No. A27010702 which today stands in the name of the Petitioner. The meter reading for the said Consumer No. A27010702 also ex facie shows that the same was in existence prior to the revised cutoff date as per the said GR dated 16th May 2015. The only hurdle in the Petitioner's path is to establish that the said Consumer No. A27010702 pertains to Shop No.3.

12. From what is shown to me, there is nothing placed on record to show that the electricity connection was in respect of Shop No.1 or that the same has been considered to hold eligible Mr. Harishankar S. Vyas or anybody else for that matter. If this had been the case, then the Petitioner would certainly not have been entitled to make a claim for eligibility based on the said Consumer No. A27010702. But this is not the case. Hence, in my view therefore, Petitioner is entitled to an opportunity to establish (a) that Consumer No. A27010702 pertained to Shop No.3 and (b) that Shop No.3 was indeed in existence prior to 1st January, 2000(c) that no claim for eligibility based on the said Consumer No. A27010702 has been made or granted by the Respondents for inclusion in

Annexure II. In the event the Petitioner is able to establish this, I see no reason why the Petitioner should not be held eligible, and his name included in Annexure II.

13. In view thereof the impugned order dated 21st November 2019 read with the order dated 20th October, 2018 is quashed and set aside. The Petitioner is permitted to file a fresh Application before Respondent No. 2 based on the documents annexed to the present Petition. Respondent No. 2 to determine eligibility within a period of 8 weeks from the date of this order being served upon Respondent No.2. It is made clear that the Respondent No.2 shall not be influenced by the observations made in this order when deciding the said Application.

14. Writ Petition is accordingly disposed of.

(ARIF S. DOCTOR, J.)