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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 565 OF 2023**

Dilip Trimbak Shirvale ... Petitioner

Vs.

The Grievance Redressal ... Respondents
Committee Slum Rehabilitation
Authority and Others

Mr. Pradeep J. Thorat for the Petitioner.

Mr. P. G. Sawant, AGP for Respondent Nos. 1 to 3.

CORAM : GAURI GODSE, J.

DATE : 21st FEBRUARY 2024

P.C.

1. This petition is filed for challenging the order passed by the competent authority rejecting the petitioners' claim for eligibility for getting permanent alternative accommodation and the order passed by the Grievance Redressal Committee ("GRC") dismissing the petitioners' appeal.

2. Learned counsel for the petitioner submitted that the petitioner was held ineligible as there were no documents produced showing

occupancy of the petitioner prior to 1st January 2000. He submitted that the petitioner is claiming through original holder who had occupied the structure since 1995. He further submitted that since the petitioner was put in possession pursuant to a document executed by the original occupant on 21st July 2007, the relevant documents to be considered were with reference to the occupancy of the original holder.

3. Learned counsel for the petitioner relies upon the Government Resolution dated 16th May 2015 which permits the subsequent occupant to be eligible, if the structure is in existence prior to the cut-off date. He submits that though the said resolution was not specifically relied upon before the competent authority or before the GRC, the petitioner is protected pursuant to the said Government Resolution. He submits that there are sufficient documents to show that predecessor of the petitioner was in occupation prior to the cut-off date.

4. He therefore, submits that the proceedings be remanded back to the competent authority for deciding the petitioners' claim afresh based on the documents of the original occupant and the GR dated 16th May 2015.

5. Learned AGP does not dispute that there is a Government Resolution which permits the subsequent occupant to claim eligibility for the structure which is in existence prior to the cut-off date. He however, submitted that the petitioner had not pressed his claim on the said GR and hence, it was not considered by the competent authority. He submitted that the competent authority rightly rejected the claim of the petitioner as there were no documents produced in support of the claim of the petitioner.

6. Respondent no. 4 is the Co-operative Housing Society and respondent no. 5 is the developer. Though the said respondents are served they are not represented in the petition.

7. Considering the claim of the petitioner based on the GR dated 16th May 2015 and the supporting documents claimed in the name of the original occupant this petition can be disposed of finally in absence of respondent nos. 4 and 5.

8. Hence, the petition was taken up for final disposal.

9. I have considered the submissions made by the learned counsel

for the petitioner and the learned AGP. I have perused the record of the petition. It is not in dispute that the GR dated 16th May 2015 relied upon by the petitioner permits a subsequent occupant to claim eligibility based on the documents of the original occupant. The petitioner has based his claim by taking support of the documents in the name of the original holder who has transferred the structure in the name of the petitioner.

10. The competent authority as well as the GRC has rejected the petitioners' claim on the ground that the petitioner was unable to produce any documents to show that he had occupied the structure prior to the cut-off date. Since the petitioner is claiming eligibility based on the aforesaid GR, it will be appropriate to remit the matter back to the competent authority for deciding the claim of the petitioner afresh based on the GR dated 16th May 2015. The petitioner will be at liberty to rely upon the documents in the name of the original occupant to support his claim of eligibility.

11. Hence the petition is partly allowed by passing the following order :

- (i) Impugned orders dated 31st March 2018 passed by respondent no. 2 and order dated 5th December 2019 passed by respondent no. 1 are quashed and set aside.
- (ii) The petitioner is permitted to file fresh claim application before respondent no. 3 within a period of two weeks from today.
- (iii) Respondent no. 3 shall decide the claim of the petitioner based on Government Resolution dated 16th May 2015 in accordance with law and uninfluenced by the observations made in the impugned order.
- (iv) Writ Petition is disposed of in the above terms.

[GAURI GODSE, J.]