

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

WRIT PETITION NO. 9236 OF 2024

Juber Alam Ansari	...Petitioner
Versus	
Grievance Redressal Committee	
Mumbai Suburbs & Ors.	...Respondents

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Mr. Nitesh Acharya a/w Mr. Akash S. Bhogil, for the Petitioner.

Mr. Arman Parve for Respondent No.6.

Ms. Tanaya Goswami for Respondent No.1.

Mr. S. Bhogale A.G.P for the Respondent Nos.2 & 9 – State.

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CORAM	:	AVINASH G. GHAROTE, J.
DATE	:	12th JULY, 2024

P.C.:

1. Heard Mr. Nitesh Acharya, learned counsel for the petitioner. Ms. Tanaya Goswami, learned counsel appears for respondent No.1, Mr. Arman Parve, learned counsel appears for respondent No.6. Learned A.G.P appears for the Respondent Nos. 2 & 9.

2. The petition questions the order dated 02.05.2023 by the First Appellate Authority under Section 35(1) of the Maharashtra Slum Areas (Improvement, Clearance And Redevelopment) Act,

1971 (for short “SRA”) (Page-162) as well as the order dated 30.04.2024 by the Grievance Redressal Committee under Section 35(1)(A) of the SRA.

3. It is the basic grievance of the learned counsel for the petitioner that the name of the petitioner was recorded in Annexure-II vis-a-vis the survey carried out in the year 2003, in which the petitioner has been found to be in possession of the structure bearing No. T-13 in light of which, the name of the petitioner was entered in Annexure-II at Sr. No.28 (Page-57) by the Competent Authority SRA. The petitioner therefore, was allotted Rehab Flat No.6 in Building No.3/A, Navjeevan Rahiwasi SRA CHSL, Bharat Nagar, Bandra(East) on 02.09.2015 and is in possession thereafter.

4. The respondent No.6, claims to have purchased the said structure, from the petitioner by way of an unregistered Sale Deed of December 1999. She filed an appeal before the Appellate Authority on 21.11.2022 under Section 35(1) of the SRA. Though under Section 35(1) of the SRA, an appeal has to be filed within a period of 30 days from the date of the order, direction or notice, the appeal came to be filed by the respondent No. 6 only on

21.11.2022, without an application for condonation of delay. The competent authority by the order dated 02.05.2023 considering the claim of the respondent No.6, that the rights to structure bearing No.T-13 was transferred by the petitioner to the respondent No.6 on 22.02.2000, directed the Competent Authority to re-examine the eligibility of the respondent No.6 within a period of three months, (Page-162).

5. The appeal before the Grievance Redressal Committee came to be dismissed by the order dated 30.04.2024 (Page-37) and though it sets aside the order of the First Appellate Authority, however at the same time it also remands the matter back to the Competent Authority for fresh hearing, which in fact is the sum and substance of the relief granted by the First Appellate Authority.

6. Learned counsel for the petitioner, submits that the mandate of section 35(1) of the SRA seeking to invoke the Appellate Jurisdiction, cannot be invoked, unless the appeal is filed within the period as indicated therein. In case there is delay, unless it is explained to the satisfaction of the First Appellate Authority by an application seeking the condonation, the appeal could not have

been entertained and in absence of such an application, the exercise of jurisdiction by the First Appellate Authority was itself infirm.

7. The learned counsel for the respondent No.6 upon a query made by the Court, is unable to point out any application filed by the respondent No.6 seeking condonation of delay in the matter of filing an appeal under Section 35(1) of the SRA. That being the position, there surely a jurisdictional error on the part of the Appellate Authority in entertaining the appeal which admittedly was beyond the period of 30 days, even ignoring the plea of the learned counsel for the petitioner that, time would begun to run from 2003 and accepting the plea by the learned counsel for the respondent No.6 that time began to run from 2015. In that view of the matter, the exercise of jurisdiction by the First Appellate Authority cannot be sustained, which has consequential effect upon the exercise of jurisdiction by the Grievance Redressal Committee under Section 35(1)(A) of SRA.

8. Issue notice for final disposal, returnable on 22nd July 2024.

9. The learned counsel for the petitioner shall serve the

respondents, who have not appeared by all modes including humdast.

10. By way of an ad-interim order, the effect and operation of the impugned orders shall stands stayed till the returnable date.

(AVINASH G. GHAROTE, J.)