

Arun

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 482 OF 2022

Paras Nagar Cooperative Housing Society Ltd ...Petitioner
Versus
Municipal Corporation of Greater Mumbai & Ors ...Respondents

**Mr Rajiv Narula, with Pankaj Pandey, Yazad Udwadia, Bijal Gandhi
& Sanjay Maji, i/b Pankaj Pandey, for the Petitioner.**
**Mr Ashish Kamat, Senior Advocate, with Simantini Mohite, i/b
Abhijeet Marathe, for Respondent No 8.**
Mr Jagdish G Aradwad (Reddy), for Respondents Nos 2, 3, 4, 6 & 7.
Mr Manish Upadhyay, AGP, for Respondent No 5-society.

**CORAM G.S. Patel &
Kamal Khata, JJ.**
DATED: 15th February 2024

PC:-

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1. In our view, the disputes raised in the Writ Petition cannot be determined in our Writ Jurisdiction under Article 226 of the Constitution of India. Fundamentally, there is a dispute about the title. What is sought is the quashing of an Annexure II but that pertains to the eligibility of the individual slum dwellers. The prayer is in any case prima facie infructuous because the Annexure II has been acted upon. The individual slum dwellers in Annexure II have not been joined as the Respondents, although the relief of quashing

Annexure II would affect them directly. The slum rehab building has been constructed. It has received an Occupation Certificate. The slum dwellers are already in possession. There is no possibility now of rolling this back at the instance of somebody who has a dispute as to title.

2. Prayer clause (b) then asks for action against the Municipal Corporation of Greater Mumbai, the Slum Rehabilitation Authority and the Deputy Collector, in the form of a direction to initiate action against the developer “for misleading and misrepresenting” issues of title to various authorities. That is hardly the subject matter of a Writ Jurisdiction. These are the only two prayers in the Writ Petition:

“(a) That this Hon’ble Court be pleased to issue a Writ of Mandamus or any other appropriate Writ or direction under Article 226 of the Constitution of India calling for the records and papers of the Petitioners case and after going through the same be pleased to quash and/or set aside the Annexure II (Exhibit “DD”), CC bearing No. KE/PVT/0103/20050609/52, dated 15/02/2018, LOI bearing No. SRA/ENG/1104/KE/PL/LOI dated 04/05/2017 and 15/02/2018, LOI bearing No. SRA/ENG/1114/KE/PL/LOI dated 02/01/2020, amalgamation of suit property in LOI dated 04/05/2017, as well as all the permissions and sanctions granted by Respondent No.2 permitting Respondent No.8 to construct on the suit plot bearing CTS No. 156-D belonging to the Petitioners and reserved as “RG”, by the MCGM (Respondent No. 1) as is more particularly described in Annexure “B” hereto;

(b) That, this Hon’ble Court be further pleased to direct Respondent Nos. 1, 2 and 6 to initiate suitable and

appropriate action against Respondent No. 8 under the relevant provisions of the MMC Act and the Slum Act; for misleading and misrepresenting the authorities to obtain grant of Annexure II, CC, LOI, amalgamation of 2017, as well as all permissions and sanctions to construct 22 multi story building under the SRA Scheme on the suit plot of land.”

3. The others are all interim prayers.
4. The Petitioner has already filed a Suit. Ad interim relief was refused on 18th December 2019 by AK Menon, J. An appeal was disposed of without interfering with the ad interim order. The Suit and the Interim Applications are yet pending.
5. The Petitioner is at liberty to pursue those remedies. Those matters will be decided on merits. All contentions are kept open.
6. The Writ Petition is disposed of in these terms with no order as to costs.

(Kamal Khata, J)

(G. S. Patel, J)