

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

PUBLIC INTEREST LITIGATION NO.75 OF 2015

Shaikh Abdul Rahim : Petitioner.

Vs.

The State of Maharashtra and ors. : Respondents.

**WITH
NOTICE OF MOTION NO.6 OF 2019
IN
PUBLIC INTEREST LITIGATION NO.75 OF 2015**

Abdul Sheikh : Applicant

In the matter between

Abdul Sheikh : Petitioner.

Vs.

The State of Maharashtra and ors. : Respondents.

**WITH
INTERIM APPLICATION (L) NO.27180 OF 2023
IN
PUBLIC INTEREST LITIGATION NO.75 OF 2015**

Navjeevan Rahiwashi SRA
Co-op Society Ltd.
Through its Secretary : Applicant.
Jamila Rizwan Sayed (Org.Respondent No.4)

In the matter between

Shaikh Abdul Rahim : Petitioner.

Vs.

The State of Maharashtra and ors. : Respondents.

**WITH
CHAMBER SUMMONS NO.179 OF 2019
IN
PUBLIC INTEREST LITIGATION NO.75 OF 2015**

Perumal Chinna Thambi : Applicant/Org Applicant

In the matter between

Shaikh Abdul Rahim : Petitioner.

And

Perumal Chinna Thambi : Applicant

Vs.

The State of Maharashtra and ors. : Respondents.

Mr. Kewal Ahya for the Petitioner.

Mr. Milind V. More, Addl. GP for Respondent No.1 – State.

Dr. Milind Sathe, Senior Advocate i/by Mr. J. G. Aradwad (Reddy)
for Respondent No.2 – SRA.

Mr. Girish Utangale a/w Mr. Saurabh Utangale i/by Utangale &
Co. for Respondent No.3 – MHADA.

Mr. Akash Rebello a/w Mr. A Khan and Mr. Akash Mangalgi for
Respondent No.4.

**CORAM : DEVENDRA KUMAR UPADHYAYA, CJ. &
ARIF S. DOCTOR, J.**

DATE : 18th APRIL 2024

P.C. :

1. The captioned Petition is stated to have been filed in the public interest and *inter-alia* seeks the following reliefs: -

"(a) That this Hon'ble Court be pleased to issue appropriate writ or writ of mandamus directing the Respondent No.1 to 3 not to allot the tenements to those Members of Respondent No.4 society who have illegally transferred and sold the tenements in the slum rehabilitation project contrary to provisions of Maharashtra Slum Area (Improvement, Clearance and redevelopment) Act 1971.

(b) That this Hon'ble Court be pleased to issue appropriate writ or writ of mandamus directing the Respondent No.1 to 3 to allot the tenements to those Members of Respondent No.4 society who are eligible under the provisions of Maharashtra Slum Area (Improvement, Clearance and redevelopment) Act 1971."

2. The captioned Interim Application has been filed by Respondent No.4 (Society) seeking removal of the Petitioner on the ground that (a) the Petitioner has not approached this Court in genuine public interest and; (b) the Petitioner is in breach and violation of Bombay High Court Public Interest Litigation Rules, 2010 ("PIL Rules") more particularly Rules 5(d) and 5(e)¹ which

1 *5. In the petition to be filed under clause (e) of Rule 4, the petitioner shall disclose:-
 (a)
 (b)
 (c)
 (d) the nature and extent of the personal interest, if any, of the petitioner(s).
 (e) details regarding any civil, criminal or revenue litigation, involving the petitioner or any of the petitioners, which has or could have a legal nexus with the issue(s) involved in the Public Interest Litigation."

requires the Petitioner to make certain disclosures including the details regarding any civil, criminal or revenue litigation involving the Petitioner which has or could have a legal nexus with the issue(s) involved in the Public Interest Litigation.

3. We have heard Mr. Rebello, Learned Counsel appearing on behalf of Respondent No. 4 i.e. the Applicant in the captioned Interim Application, who points out that not only was the Petitioner an employee of HDIL, i.e. the company who was initially appointed to carry out the slum rehabilitation scheme in question, but also that the Petitioner has failed to disclose that there are various FIRs filed against the Petitioner, none of which has been disclosed by the Petitioner as required under the PIL Rules. Basis this he submits that the present Petition cannot be entertained at the instance of the Petitioner.

4. Mr. Ahya Learned Counsel appearing for the Petitioner did not dispute filing of such FIRs. He however submits that the same does not have any nexus with the issues involved in the

present Petition and thus would not have to be disclosed as per Rule 5 (e) of the PIL Rules. He thus submits that there was no requirement for the Petitioner to have made any such disclosure.

5. Dr. Sathe, Learned Senior Counsel appearing on behalf of Respondent No.2 – SRA submitted that much water had flowed under the bridge since the filing of this Petition. He has invited our attention to an Affidavit dated 14th August 2023 filed by the Respondent No.2 - SRA and pointed out therefrom that the steps and/measures taken by the SRA were implemented to ensure that a slum dweller who has been held eligible in one scheme will not be allotted another tenement in respect of another scheme. From the said Affidavit, he pointed out the following steps were taken by the SRA , viz.

3. I say that in view of the orders passed by this Hon'ble Court on 12.03.2020 and 19.07.2023, a meeting was conducted under the Chairmanship of the Additional Chief Secretary, Housing Department, Government of Maharashtra on 01.08.2023, in which the CEO/SRA pointed out that so far as the issue availing benefit of more than one tenement by the slum dwellers under more than one Slum

Rehabilitation Scheme is concerned, the office of the SRA has initiated the process of Adhar Card linking. Even the office of SRA is in the process of linking electricity bills with Adhar Card so that the instances of the slum dwellers taking benefit of allotment of more than one tenement under different Slum Rehabilitation Schemes and getting more than one tenement are prevented and such slum dwellers can be identified and not held eligible for more than one tenement under one scheme and or under different schemes.

7. I say that now the SRA is conducting door to door biometric survey of each slum pockets and each hut and even the slum pockets has already been given Cluster Numbers. The door to door slum survey by using specially designed mobile application is initiated, which comprise of following data input :

- (a) Painting unique numbers on each hut and collecting following data from each hut :*
 - (i) Hut photos from front and side.*
 - (ii) 360 degree panoramic photo of the hut is taken*
 - (iii) Hut owner and family member's photos are taken*
 - (iv) Self-declaration in the nature of video Clip from the hut owner is obtained.*
 - (v) Short video of interior of the hut is taken.*
 - (vi) Signed self-declaration of the hut owners is taken.*

- (vii) Available residential proof of existence of hut from 2000/2011 is taken and documents like electricity bills, license, agreement, deed etc. are taken.*
- (viii) Adhar Card details and biometric of hut occupant is obtained.*
- (ix) Measurement of the hut is taken.”*

Basis the above, Mr. Sathe submitted that nothing now survives in the captioned Petition and thus the same deserved to be disposed of.

6. Mr. Ahya however submitted that the scope of this Petition had been expanded by this Court vide its order dated 5th December 2018 where this Court noted the need to address the issue of one family – one person, i.e. once one member of a family was held eligible and had been allotted a tenement no other member of that family could be held eligible. He submitted that this aspect had not been addressed at all by the SRA and therefore different members of the family of a slum dweller who has been held eligible and allotted a tenement continue to apply for and be allotted tenements in their own names. He thus

submitted that till this issue was addressed, the Petition ought to be kept alive.

7. We have heard the learned counsel for the Parties and find that given the steps now stated on Affidavit to have been taken by the SRA to ensure that more than one tenements will not be allotted to someone who has been once held eligible in slum rehabilitation scheme, we find the concerns raised in the Petition in this regard stand adequately redressed. Insofar as the other relief, i.e. allotment of tenements to those members of Respondent No. 4 who have not been allotted, that is a cause which can be best espoused either individually and/or collectively by members of Respondent No. 4. We have been informed that the aggrieved members of Respondent No. 4 have infact filed their individual Petitions in which the Petitioner had even sought impleadment, which was rejected. Given this, we find merit in the contention of Learned Senior Counsel Dr. Sathe that the concerns raised in the Petition as filed have been addressed.

8. Insofar as the Petitioner's contention that the scope of the Petition has been expanded by this Court vide its Order dated 5th December 2018, we must note that the same was before the bonafides and locus of the Petitioner were called into question. Having now examined for ourselves the contentions raised qua the Petitioner's bonafides and failure to make the requisite disclosures, we find merit in the same. A perusal of both the FIRs in question which are dated well before the Petition make clear allegations against the Petitioner that the Petitioner was acting at the behest of the former developer HDIL and had taken various steps to evict the slum dwellers (the members of Respondent No.4) from their respective tenements. The FIRs also disclose that the Petitioner had committed various acts of assault not only against the members of Respondent No.4 but also against the police officers who had sought to intervene in the matter. Thus in our view the Petitioner was required to have made requisite disclosure of the filing of these FIRs under Rule 5(d) of the PIL Rules, since on a plain reading of

the same, the Petitioner would *prima facie* be a person interested in the subject matter of this Petition, he being an erstwhile employee of HDIL i.e. the Company which was initially appointed to carry out the Slum Rehabilitation Scheme in question. It was then open to the Petitioner to have offered an explanation as to why if at all the Petitioner was not a person interested in the subject matter of litigation, however, the said disclosure in the first place ought to have been made, given the nature of grave allegations made in the said FIRs. Additionally we note that the charge-sheet against the Petitioner was filed in FIR No. 141 of 2006 in the year 2022 and this fact was also never informed by the Petitioner to this Court as ought to have been. We therefore do not find it appropriate to now continue the present Petition at the instance of the Petitioner.

9. We however make it clear that in the event the issue noted in the order dated 5th December 2018 has not been addressed by the SRA, it would be open to raise the same in a duly instituted public interest petition.

10. The captioned Public Interest Litigation Petition is therefore disposed of in the aforesaid terms.

11. In view of disposal of the Petition, all pending Applications do not survive and the same are also disposed of.

(ARIF S. DOCTOR, J.)

(CHIEF JUSTICE)