

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.1134 OF 2023

Shridhar Narayan Shelar & Anr. ...Petitioner
Versus
The Chief Executive Officer SRA & 4 Ors. ...Respondents

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Mr. Y. E. Mooman, i/b. Ms. Manisha B. Gawde, for Petitioner.
Ms. Pushplata N. Diwan, for SRA, Respondent No.1.
Mr. Jeet Gandhi, a/w. Mr. Rahul Arora, Mr. Vicky Pohuja & Mr. Akash Gupta, for Respondent No.2.
Ms. Akanksha Patil, a/w. Mr. Dipesh Yadav i/b. Narayanan & Narayanan, for Respondent No.3.

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CORAM : SANDEEP V. MARNE, J.

DATED : 05 MARCH 2024.

P. C. :

By this petition two Petitioners, who are declared ineligible in the Slum Rehabilitation Scheme (**SRS**) are challenging the Order dated 30 September 2021 passed by the President of Maharashtra Slum Areas (I.C. & R.) Tribunal and Special Tribunal, Mumbai (**Slum Tribunal**) rejecting the application for condonation of delay in filing the Appeal. In their Appeal, Appellants had challenged notification dated 27 November 2013 issued in respect of the land bearing C.S. No.12/124 admeasuring 914.11 sq. mtrs. in

Parel Shevree Division as 'Slum Rehabilitation Area' under Section 3C(1) of the Maharashtra Slum Areas (Improvement, Clearance And Redevelopment) Act, 1971 (**Slum Act**).

2. It appears that the Petitioners had earlier challenged Order dated 09 January 2012 and notification dated 19 April 2012 declaring the plot as Slum Rehabilitation Area by filing Appeal No.27 of 2012. The Appeal was allowed by Judgment and Order dated 13 August 2012 and the matter was remanded to the Chief Executive Officer, SRA for grant of opportunity of hearing to all concerned persons and to decide the issue afresh by passing speaking order. It is Petitioners' case that after passing of Order dated 13 August 2012 by the Slum Tribunal, Petitioners did not receive any notice in respect of proceedings conducted afresh by the Tribunal. That they acquired knowledge about the issuance of notification dated 27 November 2013 for the first time on 05 January 2018 and that they lodged their Appeal challenging notification in November 2018. On this ground, Application was filed for condonation of delay of 1521 days in filing the Appeal before the Slum Tribunal. By Order impugned in the present petition, the Tribunal proceeded to dismiss the Application for condonation of delay filed by the Petitioners. Aggrieved by the decision of the Tribunal, Petitioners have filed the present petition.

3. I have heard Mr. Mooman, the learned counsel appearing for Petitioner, Mr. Gandhi, the learned counsel appearing for Respondent No.2, Ms. Patil, the learned counsel appearing for Respondent No.3 and Ms. Diwan, the learned counsel appearing for SRA.

4. The impugned notification was issued by SRA on 27 November 2013 and the same was sought to be challenged by the Petitioner after delay of 1521 days by filing an Appeal before the Slum Tribunal. Petitioners feign ignorance of notification dated 24 November 2013 and contend that they acquired knowledge about the notification for the first time in January 2018. However this contention of the Petitioners is belied by the fact that the public notification was pasted on the conspicuous place of the society and Petitioners did not deny before the Slum Tribunal in the rejoinder filed by them that such notification was indeed pasted at the conspicuous place of the society on 24 October 2013. Petitioners who were diligently challenging earlier notification dated 19 April 2012 ought to have immediately challenged the subsequent notification dated 27 November 2013 within a reasonable time.

5. Another factor which clearly goes against the Petitioners is the fact that after issuance of notification dated 27 November 2013, several structure occupiers started vacating their premises. There were originally 66 hutments on the plot and several of them started vacating their structures after issuance of the notification dated 27 November 2013. It is therefore difficult to believe that the Petitioners were totally oblivious about implementation of the SRS on the plot and about issuance of notification dated 27 November 2013.

6. It appears that as of today the development on the plot has substantially progressed. As of now, 23 storied building is standing on the plot, in respect of which full occupancy certificate is issued on 23 February 2023. The earlier structure occupiers have already shifted in the building.

Petitioners are held ineligible and it appears that they have not received Permanent Alternate Accommodation. This appears to be one of the reasons why Petitioners have been agitating about implementation of SRS on the concerned plot.

7. It would be too late a day to now permit Petitioners to prosecute their Appeal in which the notification dated 27 November 2013 was challenged. The delay in filing Appeal before the Slum Tribunal was inordinate and no proper explanation was offered for condonation of delay. No serious error can be noticed in the Order passed by the Slum Tribunal. Writ Petition, being devoid of merits, is dismissed with no order as to costs.

SANDEEP V. MARNE, J.

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