

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**ORDINARY ORIGINAL CIVIL JURISDICTION**  
**WRIT PETITION NO. 3663 OF 2023**

Ryberg Cyril Henriques ...Petitioner  
*Versus*  
 Government of Maharashtra through its ...Respondents  
 Secretary for Housing & Ors

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**Mr RC Henriques, for the Petitioner in person present.**  
**Mrs Poonam Mittal, AGP, for the Respondent-State.**  
**Mr Vijay D Patil, for Respondent No 3-SRA.**  
**Mr Vishal Makwana, i/b Diamondwala & Co, for Respondent No 5.**

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**CORAM    G.S. Patel &**  
**Kamal Khata, JJ.**  
**DATED:    5th March 2024**

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**PC:-**

1. The Petitioner claims to be the owner of CTS Nos 431 and 346 and 346/1 to 346/6. The disputes in the Petitioner's family were once in a Testamentary Court. Those Testamentary disputes were before one of us (GS Patel J) and resulted in a judgment dated 24th August 2017.<sup>1</sup>

2. The Petitioner claims that the 5th Respondent, formerly known as Omkar Ventures Private Limited, is undertaking a slum project and is constructing sale buildings on land that belongs to the

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1 *Enid Anna Hayden & Ors v Anthony Cosmos Henriques & Ors*, TP 532 of 1987, judgment dated 24th August 2017..

Petitioner or the Petitioner's family. There was an order of the CEO of the Slum Rehabilitation Authority on 1st July 2022 directing Omkar and other entities not to create any third-party interests because of a complaint filed by the present Petitioner. The 5th Respondent carried that matter to the Apex Grievance Redressal Committee ("**AGRC**"). There was a submission made at that time that there were 5869 slum dwellers on the larger plot which included the lands in question claimed by the present Petitioner. Four rehab buildings and one sale building were being built and two rehab buildings were on the verge of completion.

3. The present Petitioner was the 3rd Respondent to that application by the present 5th Respondent. The 5th Respondent said that it had obtained title through various Deeds of Conveyance with the legal heirs of the original owner, Elias Cosmos Henriques and the late Sera Mary Henriques.

4. The allegation was that the present Petitioner's complaint was never served on the 5th Respondent. The AGRC stayed the order of 1st July 2022 holding that the non-service of a complaint was a serious matter.

5. The next decision in the same application is of 11th November 2022. Again, the present Petitioner was before the AGRC. His submissions were noted in paragraph 5 of that order. These included submissions that the 5th Respondent had not submitted Property Cards ("**PR Cards**") and so on.

6. The AGRC granted an extension of three months to submit the PR cards in question.

7. Now the Petitioner claims that one of the contesting family members actually purported to dispose of more than her legitimate share in the property.

8. That is not an issue that lies within the remit of the Writ Court. Undoubtedly, the 5th Respondent did have some transactions with some member of the Petitioner's family. To what extent that transaction is or is not legitimate is not a question that we can examine. It is a disputed question of fact. It is a question of title.

9. The Petitioner who appears in person tells us that he has already instituted a civil proceeding on the Original Side of this Court. He is at liberty to pursue that proceeding and to take all available contentions. We have not expressed any opinion on the merits of the controversy before us. We have only held that these disputed questions of fact do not lie within the jurisdiction of a Writ Court under Article 226 of the Constitution of India.

10. The Petition is disposed of in these terms with liberty reserved to the Petitioner as aforesaid.

**(Kamal Khata, J)**

**(G. S. Patel, J)**