

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

WRIT PETITION NO.393 OF 2024

Smt. Draupadi Baburao Kamble	]	
Aged 65 years, Occ.: Rag Picker,	]	
Residing at Room No .30-A,	]	
Mahatma Phule Sahakari Grihnirman	]	
Sanstha, Free Press Journal Road,	]	
Nariman Point, Mumbai-400021.	]	...Petitioner.

V/s

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|----|------------------------------------|---|--|
| 1. | The State of Maharashtra |] | |
| | (Through Government Pleader, |] | |
| | High Court, Bombay) |] | |
| 2. | The Chief Executive Officer, |] | |
| | Slum Rehabilitation Authority, |] | |
| | Anant Kanekar Marg, |] | |
| | Bandra (East), Mumbai-400 051. |] | |
| 3. | Mahatma Phule Nagar SRA |] | |
| | CHS Ltd., |] | |
| | Having its office at C.S. No.1980, |] | |
| | Plot No.153-A(Pt.), Free Press |] | |
| | Journal Road, Mumbai-400 021. |] | |
| 4. | M/s. ACE-LINKS, |] | |
| | Builders & Developers |] | |
| | Shri. Dhanesh Merchant, |] | |
| | Having its office at 1401, |] | |
| | Continental Tower, Sherli Rajan |] | |
| | Bandra (West), Mumbai-400 050. |] | |
| 5. | Arun Murlidhar Bele, |] | |
| | News Reporter, |] | |
| | Having his office at-Parighkhadi, |] | |
| | Indira Nagar, Survey No.4, |] | |
| | Near Dutt Mandir, L.B.S. Marg, |] | |

Kurla (West), Mumbai-400 070]
 Having residence address at]
 Room No.418, Bldg. No.03,]
 Naya Savera, MHADA Colony,]
 Vashinaka, Chembur,]
 Mumbai – 400 074.] ...Respondents.

Mr. R.A. Yadav for Petitioner.

Ms. M.P. Thakur, A.G.P. for Respondent No.1-State.

Mr. Jagdish G. Aradwad (Reddy) for Respondent No.2-SRA.

Mr. Shanay Shah i/by Adv. Sapna Rachure for Respondent No.4.

CORAM : A. S. GADKARI AND
 KAMAL KHATA, JJ.
 RESERVED ON : 1st April, 2025.
 PRONOUNCED ON : 9th April, 2025.

JUDGMENT (Per Kamal Khata, J.):

1) The Petitioner is aggrieved by the Respondents failure to give her a flat in the Eastern Suburb as a Project Affected Person ('PAP') and also failure to give rent thereby violating Circular No.153 of the Slum Rehabilitation Authority ('SRA').

2) The Petitioner is surviving as a rag picker in Mumbai since her husband had expired in the year 2013. She claims that, she was uninterruptedly residing in a structure that was demolished by the Respondent No.4 in the year 2008. It is her case that, she was mislead by certain person and removed from occupation of the said hut. The Petitioner

admits having received a payment of Rs.5,50,000/- from Respondent No.4 on 3rd March, 2008. Apparently she was declared ineligible in 2007. She filed an Application before the Competent Authority, seeking the inclusion of her name in Annexure-II, that was rejected by an Order dated 13th January, 2012. Later, she approached the Additional Collector on 20th June 2014, by filing an Appeal against the Order of SRA bearing Appeal No.1960 of 2016. The Additional Collector passed an Order on 17th December, 2019 rejecting her Appeal. The Petitioner then challenged the Order of 17th December, 2019 before the Grievance Redressal Committee (GRC) under Section 35(1)(A) of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971. The GRC partially allowed her Appeal, set aside the Order of the Additional Collector dated 17th December 2019, and remanded back the matter for passing a fresh Order. She has not received any communication thereafter. Additionally, the Petitioner has filed various complaints with the concerned Higher Authorities, as averred in paragraph No.7 of the Petition. She has now also filed this Petition in September 2023.

3) In this background the Petitioner has prayed for the following substantive reliefs:-

“(a) The Writ Petition may be admitted under Article 226 of the Constitution of India, 1950 and rule be issued;

(b) This Hon'ble Court may be pleased to direct the Respondent Nos. 2, 3 and 4 to provide flat in rehab building under Slum Act and also provide rent from 2008 till possession is given as per Circular 153 of Slum Act at the place of old Room No. 30-A, Mahatma Phule Shakari Grihanirman Sanstha, Free Press Journal Road, Nariman Point, Mumbai – 400 021; and as per Annexure-II, Sr. No. 30, C.T.S. No. 1980 to the Petitioner;

(c) This Hon'ble Court may be please to direct the Respondent No. 5 be be directed to handover all the documents of Petitioner taken in custody from the Petitioner and also return Rs.50,000/- to the Petitioner taken from online to rehab at the same site, the assurance was given by the Respondent No.5;

(d) This Hon'ble Court may be please to direct the Respondent Nos. 2, 3 and 4 be directed to compensate to the Petitioner being rag picker and illegally and forcibly pressurising causing mental and physical harassment to allot room in Mumbai Western Suburban District, so lump-sum amount may be

awarded for causing mental, physical harassment to the Petitioner;”

4) Mr. Yadav, learned Advocate for the Petitioner submits that, this is a straight forward case. According to the Petitioner, she was mislead and was forced to shift out of her hut in the year 2008. He accordingly only seeks that, her Appeal for rent from 2008 and possession of a PAP premises should be heard.

5) Mr. Shah, learned Advocate for Respondent No.4 submits that, the Petition suffers from suppression of material facts and documents. He draws our attention to the Agreement dated 29th February, 2008 wherein the Petitioner has relinquished her right, title and interest in the hut as more particularly stated in Clause 14 of the said Agreement annexed to the Affidavit of Mr. Danishmand Merchant dated 7th February, 2025. He submits that, the entire consideration was paid to the Petitioner and therefore she has no ground to claim any further rent or a PAP tenement as claimed in the Petition.

6) Mr. Reddy, learned Advocate for the Respondent No.2-SRA also relies on the Affidavit of Mr. Chandrakant Pawar, the Assistant Registrar, SRA dated 10th February, 2025. He submits that, the name of the Petitioner was listed as a non-eligible slum dweller in Annexure-II. Admittedly for demolition of the structure the developer had paid compensation of

Rs.5,50,000/- to the Petitioner on 29th February, 2008. In addition to the said amount, the developer had also paid a sum of Rs.3,00,000/- in the year 2010 only on humanitarian ground to the Petitioner. He submitted that, the entire Slum Rehabilitation Scheme ('SR Scheme') and the rehab building was completed in the year 2015 and full Occupation Certificate ('OC') was issued on 14th July, 2015. He therefore submits that, there is no liability towards the Petitioner who was then non-eligible slum dweller having surrendered her hut to the Respondent No.4.

6.1) However, the Petitioner was held eligible only on 29th November, 2022 i.e. 7 years since the project has been completed. Therefore, they are unable to grant her any accommodation in that project. He submitted that, she would be treated as a PAP and would be allotted a tenement either in Mumbai City or Suburban District as and when available. The insistence of the Petitioner to be allotted tenement on the subject property is however not feasible. He however offers that, once the Petitioner indicates her choice of tenement from list of tenements available they would put her in possession within a period of 4 weeks.

6.2) The statement made on behalf of Respondent No.2 is accepted as an undertaking given to this Court.

7) In view of the solemn statement made on instructions by Mr. Reddy, for allotting a PAP tenement from the available tenements to the

Petitioner within 4 weeks of her making a choice, the Petition is disposed off.

8) The Petition is partly allowed in the above terms.

(KAMAL KHATA, J.)

(A.S. GADKARI, J.)