

VRJ

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.166 OF 2025
IN
INTERIM APPLICATION (ST.) NO.12712 OF 2025
IN
WRIT PETITION NO.166 OF 2025

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Vikas Damodar Pawar

... Petitioner

V/s.

Additional Collector (Enc/Rem)
& Appellate Authority, Eastern Suburbs
& Ors.

... Respondents

Mr. Vishal Kanade with Pradeep Gayakwad i/by Mr.
Shyam Singh for the petitioner.

Ms. A. A. Nadkarni, AGP for the State-respondent No.1.

Mr. Ramdas Shelke for respondent Nos.2 to 9.

Ms. Sayali Apte i/by P. G. Lad for respondent No.10.

Mr. Anoop Patil with Linus Castro for respondent
Nos.11 and 12.

CORAM : AMIT BORKAR, J.

DATED : APRIL 8, 2025

P.C.:

1. By this Writ Petition instituted under Articles 226 and 227 of the Constitution of India, the petitioner seeks to impugn the order passed by the Grievance Redressal Committee, Mumbai Suburban District, Mumbai (hereinafter referred to as the "GRC") in an appeal preferred under Section 35(1A) of the Maharashtra Slum

Areas (Improvement, Clearance and Redevelopment) Act, 1971 (hereinafter referred to as the "Slum Act"), whereby the GRC has upheld the order dated 4th April 2024 passed by the Appellate Authority in Appeal No.485 of 2023.

2. The principal grievance articulated on behalf of the petitioner is that, although the Appellate Authority recorded a categorical finding in favour of the petitioner to the effect that the Social Welfare Centre, which is the subject matter of the proceedings, was constructed after obtaining a No Objection Certificate from the Collector, the appeal was nevertheless dismissed on the ground that the terms and conditions contained in the order dated 25th August 2023 had been breached, thereby warranting demolition of the alleged unauthorized construction. Learned counsel for the petitioner would urge that the Appellate Authority exceeded the scope of the proceedings by directing demolition of structures that were not the subject matter of the appeal. It is submitted that these contentions were expressly raised before the GRC; however, the GRC has, without due application of mind and without adverting to the specific submissions advanced on behalf of the petitioner, proceeded to mechanically dismiss the appeal.

3. The respondents have contested the petition by filing an affidavit-in-reply. It is their case that the permission granted by the Collector was exclusively in favour of the Slum Board (MHADA), and the construction of the Social Welfare Centre was undertaken by a third party without authority. It is thus contended that the benefit of the No Objection Certificate granted by the Collector

cannot be extended to any person other than the Slum Board (MHADA), and any construction carried out unauthorisedly is liable to be demolished.

4. Upon a careful perusal of the impugned order passed by the GRC, it is evident that the material contentions advanced by the petitioner have not been addressed or considered in accordance with law. The GRC, being an appellate authority exercising quasi-judicial powers under the Slum Act, was under an obligation to deal with the specific submissions raised by the parties and render findings thereon supported by cogent reasoning. The failure of the GRC to discharge this obligation renders the impugned order unsustainable in law.

5. Furthermore, the Appellate Authority, while recording findings of breach of the terms of the No Objection Certificate, did not undertake an independent evaluation of the purport of the permission granted by the Collector, the identity of the person or body authorized to carry out the construction, the status of the land on which the construction was carried out, and whether such construction was sanctioned by the planning authority having jurisdiction. These aspects go to the root of the matter and required due adjudication before any adverse action such as demolition could be ordered.

6. In view of the foregoing, in my considered opinion, the interests of justice would be subserved by setting aside the orders passed by the Appellate Authority as well as the GRC and by remanding the matter to the Appellate Authority, namely, the

Additional Collector (Encroachment/Removal), Eastern Suburbs, for a fresh decision in accordance with law.

7. Hence, the following order is passed:

ORDER

- i. The order dated 4th April 2024 passed by the Appellate Authority [Additional Collector (Enc./Rem.)] Eastern Suburbs in Appeal No.485 of 2023 and the order dated 11th October 2024 passed by the Grievance Redressal Committee in Appeal No.135 of 2024 are hereby quashed and set aside.
- ii. The matter is remanded to the Additional Collector (Enc./Rem.), Eastern Suburbs, for fresh consideration and decision of the appeal, in accordance with law, after granting a reasonable opportunity of hearing to all concerned parties.
- iii. It shall be open for both the petitioner and the respondents to raise all contentions, factual and legal, before the Appellate Authority, without being influenced by any observations made in the impugned orders.
- iv. The Appellate Authority shall specifically consider the following issues:
 - a) Whether the construction of the Social Welfare Centre was authorized in favour of the Slum Board (MHADA), and whether the No Objection Certificate granted by the Collector permitted construction by any person other than the Slum Board (MHADA);
 - b) Whether the land on which the Social Welfare Centre is

constructed is part of a slum area duly declared under the Slum Act;

c) Whether the construction of the Social Welfare Centre is in conformity with the permissions granted by the planning authority exercising jurisdiction over the area.

v. The Appellate Authority shall decide the appeal on its own merits, uninfluenced by any prior findings, and by passing a reasoned order dealing with all contentions of the parties.

8. With the aforesaid directions, the writ petition is disposed of. There shall be no order as to costs.

9. It is directed that the ad-interim relief granted by this Court on 9th January 2025 shall continue to remain in operation during the pendency of the remanded appeal before the Appellate Authority.

10. Insofar as the other structures referred to in the order passed by the Additional Collector (Enc./Rem.), Eastern Suburbs are concerned, it shall be open to the appropriate authority to take action thereon in accordance with law, after following due process.

11. The parties shall appear before the Additional Collector (Enc./Rem.), Eastern Suburbs on 17th April 2025, without the necessity of any further notice.

12. The Additional Collector (Enc./Rem.), Eastern Suburbs shall endeavour to decide the remanded appeal expeditiously and, in any event, within a period of two months from the date of appearance of the parties.

13. Pending interlocutory application(s), if any, stand disposed of.

(AMIT BORKAR, J.)