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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.522 OF 2025

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Umesh Mangesh Bagkar & Anr.

... Petitioners

V/s.

The Grievance Redressal Committee,
Mumbai Suburban & Ors.

... Respondents

Mr. Vinod Sangvikar with Mr. Yogesh Morbale i/by
Siddheshwar Galande for the petitioners.

Mr. Nishigandh Patil for respondent Nos.1, 2 and 3.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 27, 2025

P.C.:

1. The challenge in the present writ petition is directed against the order passed by the Grievance Redressal Committee, which confirmed the earlier order of the first authority holding the petitioners ineligible on the ground that they failed to demonstrate the existence of the subject structure prior to 1 January 2000. The issue for consideration is whether the petitioners have discharged the burden of proof cast upon them to show, by cogent and reliable evidence, that such structure indeed existed before the cut-off date. It is a well-established principle of law that when a statutory authority fixes a particular date as a cut-off for determining eligibility, the onus lies upon the claimant to produce documentary

or other substantive proof to satisfy the test of prior existence. In this regard, this Court takes judicial notice of the settled position that mere assertions devoid of conclusive evidence cannot suffice to overturn the reasoning adopted by the authorities concerned. Petitioner must establish a clear nexus between the structure and the relevant cut-off date through unimpeachable and contemporaneous evidence. In the present matter, such evidence is conspicuous by its absence.

2. The learned Advocate for the petitioners has relied upon the survey receipt dated 1 August 2000, seeking to demonstrate that the survey was originally carried out in the year 1995. However, it is evident from the very face of the receipt that it was prepared on 1 August 2000, which falls beyond the critical date of 1 January 2000. The authorities below have meticulously appreciated the significance of this document and found that it does not provide credible proof of any structure existing prior to the cut-off date. The well-reasoned decision of the authorities, discarding the survey receipt, cannot be said to be perverse or unsustainable in law. The documentary evidence must be not only relevant but also contemporaneous to establish the fact in issue. Here, the date of issuance itself postdates the eligibility date and thereby loses probative value regarding any structure's existence prior to 1 January 2000.

3. The next piece of evidence sought to be pressed into service pertains to a voter's card. This document, however, carries the name of a different person, and the appellate authority has recorded a specific finding that there is a failure to establish a

chain of documents linking the structure to the petitioners, let alone demonstrating its existence before the relevant cut-off. The remaining documents on record, as per the discussion of the Appellate Court, are admittedly generated after 2000 and thus do not assist the petitioners in discharging their burden. The appellate authority, in the considered exercise of its jurisdiction, has rightly concluded that the documents fail to bridge the evidentiary gap. Where the documentary evidence is neither consistent nor correlates to the disputed structure, the claim of prior existence must fail. Thus, this Court finds no infirmity in the appellate authority's dismissal of the appeal.

4. In the conspectus of the material on record and the findings rendered by the authorities below, I see no reason to interfere with the impugned orders. The writ petition stands dismissed. There shall be no order as to costs.

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

(AMIT BORKAR, J.)