

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2592 OF 2025

Asthavinayak (SRA) Co-operative Hsg. Society Ltd

...Petitioners

Versus

Chief Executor Officer of Slum
Rehabilitation Authority & Ors.

...Respondents

Ms. Shruti S. More for the Petitioner.

Mr. O. A. Chandurkar, Addl.G.P. a/w Savita Prabhune, AGP for Respondent Nos.
2 & 4.

Ms. Aarushi Yadav i/b. Ravleen Sabharwal for Respondent Nos. 1 & 3/SRA.

CORAM: G. S. KULKARNI &
AARTI SATHE, JJ.

DATE: 03rd NOVEMBER 2025

P.C.

1. This Petition is filed under Article 226 of the Constitution of India
praying for the following substantive reliefs:-

“a) That this Hon'ble Court may be pleased to issue a Writ of Mandamus or any other Writ in the nature of Mandamus directing the Respondent Nos. 1 & 3 to initiate execution of eviction proceeding against illegal occupant under provisions of Section 3(E) Maharashtra Slum Areas(Improvement, Clearance and Rehabilitation) Act, 1971 and Rule 33(10) of Development Control Regulation forthwith within period of one month of present Writ Petition;

b) That pending the hearing and final disposal of the present Writ Petition this Hon'ble court may be pleased to issue a writ of Mandamus or any other Writ in the nature of Mandamus directing the Respondent Nos. 1&3 after evicting illegal occupant the said vacant flats to be hand over vacant peaceful physical possession to Petitioner Society;

c) That pending the hearing and final disposal of the present Writ Petition this Hon'ble court may be pleased to appoint an officer of this Hon'ble Court or an officer of Slum Rehabilitation Authority to act as a Commissioner of this Hon'ble Court to carry out the inspection or supervision of the Eviction proceedings against 17 illegal occupants under provisions of Section 3(E) Maharashtra Slum Areas(Improvement, Clearance and Rehabilitation) Act, 1971 and Rule 33(10) of Development Control Regulation;

d) For interim and ad interim reliefs in terms of prayer (a) (b) & (c) above;

e) Cost of this Writ Petition may kindly be granted;

f) Any other just, equitable and consequential relief/ order may kindly be passed in favour of the present Petitioner as this Hon'ble Court may deem fit and proper in the interest of justice;"

3. The Petitioner is primarily aggrieved by the inaction on the part of Respondent Nos. 1, 3 and 4 in not taking any action in respect of its complaint dated 17th June 2022 (Exhibit-G to the present Petition) and further in not taking action in respect of the proceedings under Section 33 of the The Maharashtra Slum Areas (Improvement, Clearance And Redevelopment) Act, 1971 (for short "Slum Act") whereby the Assistant Registrar, Co-operative Societies (Eastern and Western Suburb) SRA was informed vide letter/report dated 13th September, 2023 of the Tehsildar-1(Special Branch) or Competent Authority Slum Rehabilitation Authority (Exhibit-K to the Petition) that in respect of 16 flats situated in building No.3 of the Petitioner Society, illegal occupants/tenants were residing thereby causing grave prejudice to the Petitioners. In the aforesaid letter/report dated 13th September 2023, a note has been annexed listing out the names of the illegal occupants/tenants. Despite the aforesaid letter/report, the Respondents have failed to take any appropriate action for almost over a period of two years.

4. It is the case of the Petitioners that some time in the year 2004 as per the direction of this Court to the Slum Rehabilitation Authority (SRA), a scheme was implemented for rehabilitation of slum dwellers in so far as the Petitioner Society and other two Societies i.e. Maa Ashapura Co-operative Society and

Siddhivinayak Co-operative Society. Bifurcation orders were passed some time in April 2009 whereby the Petitioner Society was bifurcated from the parent society i.e. Maa Ashapura Co-operative Society. In the year 2009, the Petitioner-Society got registered under the provisions of Section 24 and 9(1) of the Maharashtra Co-operative Societies Act, 1960. On 4th February 2022, in Annual/Special General Meeting of the Petitioner Society, one of the agenda of the said meeting was to take appropriate action against 17 illegal occupants/tenants of the Petitioner Society. Pursuant to the said meeting, show cause notices were issued to the illegal occupants/tenants, who were asked to furnish documentary evidence of their legal occupancy of their respective tenements. However, the 17 illegal occupants/tenants failed to respond to the show cause notice dated 4th February 2022 and also did not submit any documentary evidence in respect of their occupancy and continued to stay in the tenements illegally in spite of having no legal rights to do so. On 17th June 2022, the Petitioner Society addressed a letter to Respondent No.1 to initiate eviction proceedings under Section 3(E) of the Slum Act read with Rule 33(10) of Development Control Regulation against the said 16 illegal occupants/tenants.

5. Pursuant to the above complaint, visits were made by the Officers of the SRA and scrutiny report was filed by the said officers on 3rd May 2023. On 13th June, 2023, the Assistant Registrar, SRA, Mumbai i.e. Respondent No.4 addressed a letter to Tehsildar-1 (Special Branch), Slum Rehabilitation Authority to take further action in respect of eviction of the said 16 illegal occupants/tenants. It is the Petitioner's contention that despite the said letter dated 13th June 2023 addressed by Respondent No.4 to Tehsildar-1 (Special Branch), SRA, the proposal for execution of eviction proceedings against the said 16 illegal occupants/tenants is pending for signature of all the relevant authorities. Pursuant to the complaint of the Petitioner dated 17th June 2022, the Tehsildar-1 (Special Branch), SRA has addressed letter to Respondent No.4 to initiate action against the illegal occupants/tenants on 13th September 2023 (supra), on which till date no action has been taken by the Respondents. It is in the backdrop of the above facts, the grievance of the Petitioner is that an appropriate action in pursuance to the

letter/report dated 13th September 2023 needs to be taken expeditiously as the law would mandate and eviction of illegal occupants/tenants should be done.

6. We may observe that this Court has time and again faced similar situations in other cases, wherein the SRA has failed to take action against rank illegal occupants/tenants much to the surprise and shock of this Court. This to our mind is complete dereliction of duty by the SRA in not acting against these rank illegal occupants/tenants in spite of them occupying the premises illegally to the prejudice of the lawful occupants.

7. In a similar matter this court has taken a strong view that the inaction on the part of the SRA Authorities cannot be tolerated and such gross illegalities cannot be perpetuated by the SRA. This Court in the case of **Shakir Ahmed Shah Vs. Apex Grievance Redressal Committee** WP. 3464 of 2022 wherein one of us (G.S. Kulkarni, J.) was a member has made the following observations regarding the inaction on the part of the SRA Authorities in so far as rank illegal occupants/tenants are concerned. The relevant observations are reproduced below:-

“6. Before parting, as a Constitutional Court, we cannot shut our eyes to the gross illegalities which have taken place insofar as the slum dwellers who are entitled to permanent alternate accommodation being left suffering in the manner the petitioner has suffered. For almost 13 years he was deprived of the benefit of the commercial tenement. The loss which he has suffered by such deprivation, cannot be imagined or quantified. However, as to why such illegality ought to perpetuate and be not addressed in a timely manner by the concerned officials of the SRA is the question. Certainly this case is an eye opener if not for the officials of the SRA, which the Chief Executive Officer would be required to consider, to be an example of how illegality perpetuates. Certainly such state of affairs cannot emerge unless there is a tacit approval to such illegality at the hands of concerned officials of the SRA, who for reasons best known to them, overlook such illegalities of unauthorized and illegal occupants enjoying SRA tenements, depriving those who are legitimately allotted these tenements under the slum scheme in question. As in the facts of the present case, for years together, genuine allottees cannot be deprived of the fruits of the allotments merely for the reason that illegal occupants, under the blessings of the concerned officials and illegalities of the developers, permit illegal occupation of such tenements entitled to others. It also cannot be that only after litigation on such issue and intervention of the Court or different

authorities like GRC/AGRC, such issues are being attended. This appears to be the usual mantra. There is a gross breach of legal and constitutional rights of the citizens when they are deprived of their legitimately allotted tenements. This apart, valuable rights conferred under Slum Rehabilitation Act read with Development Control Regulation 33(10) are being openly flouted by such deprivation of the legitimate claim. Certainly such illegalities amount to violation of the rights under Article 14 read with Articles 21 and 300A of the Constitution.

7. We, accordingly, direct the Principal Secretary, Urban Development Department to undertake an enquiry as to who are the officers in the SRA who are responsible for not taking action on illegal occupation of SRA tenements allotted to those slum dwellers who are named in the Annexure-II to be entitled for a Permanent Alternate Accommodation and as to why such officers ought not to be proceeded for such gross illegalities/inaction, and more importantly those who are responsible for brazen violation of the fundamental and constitutional rights of the slum dwellers.

8. We also direct that an enquiry be ordered in respect of the illegalities as noticed by us against the officials who were concerned with the project in question and subject matter of the present proceedings, and an appropriate action in accordance with law be initiated against such officers if so found to be involved in the illegalities. This more particularly that such lawlessness, breach of fundamental rights and the hardship which has been faced by the citizens cannot be overlooked and is required to be redressed in the manner known to law. We would also observe that no public official is permitted to discharge his duties in a manner which would violate the fundamental and legal rights guaranteed to the citizens and/or discharging their duties in open abuse of the powers, authority and the jurisdiction vested in them which is required to be exercised in public interest. All such powers are coupled with onerous obligations, duties and responsibilities to be discharged for public good and in public interest. However, we find that lawful actions to be taken and adhered in such matters is the last priority and illegality of an extent which cannot be confined to words, is what is being nurtured and perpetuated bringing a situation of no rule of law in the administration of Slum Rehabilitation Authority. If a welfare legislation is being abused in such manner, in connivance with the developers and other persons who are interested in only making money on illegality, it is better that such schemes are not vested with such officials.

9. We could not have stopped in not making the aforesaid observations, as case after case we come across such gross illegalities, in the slum rehabilitation projects, which are also echoed in several judgments rendered by this Court and including the serious observations as made by the Supreme Court in the case of Yash Developers vs. Slum Rehabilitation Authority and the proceedings of

which are pending before this Court. The Principal Secretary, Urban Development Department is, therefore, required to act expeditiously so as to bring about an appropriate regime of rule of law being followed and very meticulously insofar as the slum schemes are concerned.”

8. In the case of **Ahmed Hussain, son of Majibulah Khan & Anr. Versus SRA & Ors. this court WP. 1397 of 2024** a Division Bench of this Court wherein one of us (G.S. Kulkarni J.) was a member, once again made the following observations deprecating the inaction on the part of the SRA authorities by observing thus:-

“16. We observe that further appropriate action in accordance with law would be required to be taken by the Chief Executive Officer in regard to all the illegalities in respect of unauthorized occupation of the slum tenements and which has deprived the slum dwellers who are legitimately entitled to be put in possession of their allotted tenements. The eligible slum dwellers who have so far not been granted the possession of their tenements ought to be immediately granted possession of the tenements, as it is already delayed for more than 13 years. Appropriate steps in that regard be taken by evicting those who are in unauthorized occupation, so that these legitimately entitled slum dwellers whose names were already notified in Annexure II and allotment orders issued to them, are not kept deprived of the benefits of the allotments as made in their favour. All contentions of the parties in that regard are expressly kept open.

17. Needless to observe that our directions in the order passed today in Writ Petition No. 3646 of 2022 in the case of Shakir Ahmad Shah vs. Apex Grievance Redressal Committee & Ors. in regard to the enquiry being undertaken by the Principal Secretary Urban Development Department shall also apply in the present proceedings and for compliance, this petition also be listed along with companion petition writ petition after four weeks, i.e., on 8 September 2025.

18. Considering such ground realities in relation to the SRA projects, we also direct the Chief Executive Officer to undertake an immediate survey of all SRA projects in which there are complaints of illegal occupation of slum tenements irrespective of the fact whether such tenements need to come to the common pool of the SRA or to be categorized as surplus/Project Affected Persons or which are entitled to the legitimate allottees and who have not handed over the possession of such tenements. A project-wise lists of all the slum schemes/slum projects after such project be prepared and the action be taken in accordance with law against the illegal occupation.”

9. In view of the above facts and consistent view taken by this court in several matters regarding inaction by SRA to evict rank illegal tenants/occupants, and considering the limited relief prayed by the Petitioner in the present Petition, and although there being no written opposition/reply of the Respondents and with due regard to the nature of the orders which we propose to pass, no prejudice would be caused to the Respondents. The following order would serve the ends of justice :-

ORDER

- i. Respondent Nos. 1 and 3 are directed to take action in pursuance of the letter/report dated 13th September 2023 against the 16 illegal occupants/tenants who are occupying the tenements in the Petitioner Society and hand over vacant and peaceful possession of the same to the Petitioner Society in accordance with law and as expeditiously as possible, preferably within a period of four weeks from the date this order is made available to the said Respondent by the Petitioner.
- ii. The Petition is disposed of in the aforesaid terms. No costs.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)