

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

WRIT PETITION NO.13536 OF 2024

Bindudevi Rajbhar

....Petitioner

V/S

The State of Maharashtra & Ors.

....Respondents

Mr. S.A. Rajeshirke i/b Mr. A.S. Pande *for the Petitioner.*

Mr. Ketan Joshi 'B' Panel Advocate *for Respondent Nos.1 and 2/State.*

Ms. Kavita N. Solunke, *for Respondent No.3-MMRDA.*

CORAM: SANDEEP V. MARNE, J.

DATE : 02 JANUARY 2025.

P.C.:

1. The Petition challenges order dated 21 August 2024 passed by the Grievance Redressal Committee dismissing Appeal No.1128 of 2018 preferred by the Petitioner and confirming the order dated 19 October 2018 passed by Additional Collector (E&R), MMRDA in Appeal No.271 of 2017. The said Appeal was preferred by the Petitioner before Additional Collector challenging declaration of her ineligibility for grant of benefit of rehabilitation in respect of her claim relating to ID No.409/Hut No.409 which got affected by Road Widening Project undertaken by MMRDA. Petitioner was apparently granted alternate accommodation bearing Room No.611 vide allotment cum possession letter dated 15 June 2015 on the strength of her previous eligibility in respect of ID/Hut No.409. Upon

reverification, MMRDA has come to the conclusion that the husband of the Petitioner is already declared eligible in respect of Hut No.412 and has been allotted another residential unit. Since husband and wife have secured two separate residential units under the rehabilitation project, MMRDA has cancelled eligibility of the Petitioner in respect of ID No.409/Hut No.409 and has sought to recover possession of the Room No.611. Both Additional Collector as well as Grievance Redressal Committee have concurrently upheld ineligibility of the Petitioner in respect of the ID/Hut No.409.

2. I have heard Mr. Rajeshirke, the learned counsel appearing for Petitioner, Ms. Solunke, the learned counsel appearing for Respondent No.3-MMRDA and Mr. Joshi, the learned 'B' Panel Advocate appearing for Respondent Nos.1 and 2/State.

3. After having heard the learned counsel appearing for parties, it appears that the Petitioner's husband has already been held eligible in respect of Hut No.412 and is in receipt of alternate accommodation granted by MMRDA due to Road Widening Project. Petitioner claims that she was occupying independent Hut No.409 for which she was issued ID No.409. She relies upon separate ration card issued in her name in support of her contention that she did not reside with her husband after 1997. Mr. Rajeshirke would submit that the marriage between the Petitioner and her husband is dissolved by

decree of divorce in the year 2014. However, there are no averments to this effect in the entire Petition. Petitioner's reliance on ration card issued in her name does not cut any ice as the ration card does not reflect Hut No.409 in any manner. Petitioner has averred in paragraph 5 of the Petition that she gave birth to child in Hut No.409 and has produced the birth certificate issued on 17 June 1998. However the child is shown to have been born to the Petitioner on 17 February 1991. The certificate also does not mention Hut No.409. This would mean that Petitioner and her husband were residing together and if the case of the Petitioner as pleaded in paragraph 5 of the Petition is to be believed, they resided together in Hut No.409 where the child birth occurred. This story goes against Petitioner's case that the husband resided separately in Hut No.412.

4. Petitioner has not been able to produce even a single document to show her independent residence in Hut No.409 prior to the cut of date of 1 January 2000. Her husband has already secured alternate accommodation on the strength of occupation of Hut No.412. This appears to be a classic case of securing two residential units from MMRDA by the couple. Husband and wife cannot be allowed to two separate residential alternate accommodations. There are no pleadings in the entire Petition about marriage between Petitioner and her husband being dissolved by decree of divorce. In my view therefore,

Petitioner is rightly declared as ineligible and she must return possession of Unit No.611 illegally and irregularly allotted in her name ignoring the fact that the husband is already an allottee in respect of another premises.

5. I do not find any palpable error in concurrent findings recorded by the Additional Collector and Grievance Redressal Committee so as to warrant interference in exercise of extraordinary jurisdiction of this Court under Article 227 of the Constitution of India. Writ Petition is devoid of merits. It is accordingly **rejected**.

(SANDEEP V. MARNE, J.)