

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 14968 OF 2024
WITH
INTERIM APPLICATION (ST.) NO.23816 OF 2025

Shri Kisan Hirappa Bansode ...Petitioner
Vs.
1. The State of Maharashtra
2. The Chairperson, Grievance Redressal Committee
3. The Addl. Collector (ENC & R)
4. The Deputy Collector (Enc/Rem) and
The Competent Authority
5. Ms. Seema Sayappa Bansode
6. Ekta S.R.A. Gruhnirman Sanstha
7. Radius And Deserve Builders LLP ...Respondents

WITH
INTERIM APPLICATION (ST.) NO.23816 OF 2025
IN
WRIT PETITION NO. 14968 OF 2024

Seema Sayappa Bansode ...Applicant

IN THE MATTER BETWEEN :

Shri Kisan Hirappa Bansode ...Petitioner
Vs.
The State of Maharashtra & Ors. ...Respondents

Mr. Rajaram V. Bansode i/by Sheetal M. Ubale for the Petitioner.
Mr. Y. D. Patil, AGP for the Respondent-State.
Ms. Tanaya D. Goswami for the Respondent-SRA & GRC (Through VC).

CORAM: G. S. KULKARNI &
ARIF S. DOCTOR, JJ.

RESERVED ON : 30th JUNE 2025
PRONOUNCED ON : 24th JULY 2025

JUDGMENT : (PER ARIF S. DOCTOR, J.)

1. By this Petition, filed under Article 226 of the Constitution of India, the Petitioner seeks the following substantive reliefs:

- “ a) This Hon'ble Court be pleased to issue Writ of Mandamus or Writ of Certiorari or Writ in the like nature or direction or order, and thereby be pleased to quash and set aside the impugned orders:
- i) Dated 08.08.2024 passed by the Respondent No. 2 i.e. Grievance Redressal Committee, Mumbai Sub Urban Mumbai in Appeal No. 99/2023 filed U/Sec. 35 (1-A) of the said Act filed by the Petitioner & further be please to allow the Appeal of Petitioner as prayed by him.
 - ii) Dated 13.10.2022 passed by the Respondent No. 3 i.e. Appellate Authority U/Sec. 35 of the said Act in Appeal bearing No. SRA/eligibility/chembur/172/2001 o.w. no. 3930 filed by the Petitioner & further be please to allow the said Appeal as prayed by the Petitioner.
 - iii) Dated 13.08.2021 passed by the Respondent No. 4 i.e. Competent Authority Under the said Act in Application bearing no. Dyd/En/demo/chembur/D-No.-7/Exe-Ekta S.R.A. 167/2021 filed by the Respondent No. 5 & further be please to dismiss the said application of Respondent No. 5 with cost.
- b) This Hon'ble Court be pleased to issue Writ of Mandamus or Writ of Certiorari or Writ in the like nature or direction or order, and thereby be pleased to direct the Respondent Authorities particularly Respondent No. 2 to 4 to restore as it as earlier the in which the name of Petitioner is listed at Sr. No. 167 as eligible hutment.”

II. Factual Background

2. The facts lie in a narrow compass and are as follows:

- 2.1 It is the Petitioner's case that the Petitioner, Mr. Kisan Hirappa Bansode on 8th July 1990 purchased hutment no. 325 (“**the said hutment**”) from one Mr. Mesu Bhikaji, for a total consideration of Rs. 1,000/- under an agreement for sale dated 8th dated July 1990. It is not in dispute that the said hutment was thereafter recognized as an ‘eligible hutment’ within the context of the Slum Rehabilitation Scheme (“**the said scheme**”) under the provisions of “The Maharashtra

Slum Areas (Improvement, Clearance and Redevelopment Act, 1971' ("Slum Act"). Accordingly, in the year 2010, the Petitioner's name was included in Annexure II, prepared by Respondent No. 4 in respect of the said scheme.

2.2 In the year 2012, Respondent No. 5, who is the niece of the Petitioner, claimed ownership of the said hutment based on an Agreement for Sale dated 20th September 2007, executed between one Kate Aruna Appa and Respondent No. 5. Pursuant thereto Respondent No. 5 submitted an application to Respondent No. 4, requesting that the Petitioner's name in Annexure II be deleted and replaced with the name of Respondent No. 5 as being the eligible slumdweller in respect of the said hutment.

2.3 Since the aforesaid representation made by Respondent No. 5 was not acted upon, Respondent No. 5 in May 2019 filed Appeal No. 71/2019 ('**Appeal No.1**') before Respondent No.3/Additional Collector. In this appeal, Respondent No. 5 sought a declaration that Respondent No. 5 was the eligible occupant in respect of the said hutment and to accordingly replace the Petitioner's name appearing in Annexure II with the name of Respondent No. 5. The Petitioner contested the First Appeal, primarily on the grounds of inordinate delay and asserting that the claim of Respondent No. 5 was based on false and misleading documents.

2.4 The First Appeal was disposed of by an Order dated 12th October 2020 by which Respondent No. 3 remanded the matter back to Respondent No. 4, with a direction to Respondent No. 4 to hear and decide the Application made by Respondent No. 5. On such proceedings Respondent No. 4 vide an order dated 13th August 2021 (**'the First Order'**), declared Respondent No. 5 as the eligible occupant in respect of the said hutment and consequently directed the name of Respondent No. 5 be included in Annexure II in respect of the said hutment in place and stead of the Petitioners name.

2.5 The Petitioner being aggrieved by the said Order, filed Appeal No. 172/2021 (**'Appeal No.2'**) again before Respondent No. 3 and impugned the First Order on several grounds, including that Respondent No. 4 had completely overlooked the crucial documentary evidence available on record and that Respondent No. 5 had failed to produce any material to substantiate the Respondent's claim qua the said hutment. Appeal No.2 set out that Respondent No. 5 was claiming ownership on the basis of false and misleading documents, and that Respondent No. 4 had the Petitioner's name had been included in Annexure II only after due verification and scrutiny of all relevant facts.

2.6 However, by an order dated 13th October 2022 (the **'Second Order'**), Respondent No. 3 dismissed the Appeal No.2 filed by the Petitioner and upheld the First Impugned Order passed by Respondent No. 4.

Aggrieved by the Second Order, the Petitioner approached Respondent No. 2 i.e. the Grievance Committee by way of an Appeal under Section 35 of the Slum Act.

2.7 The Appeal No.2 was however disposed off by Respondent No. 2, vide an order dated 8th August 2024 (referred to as the '**Third Order**'), by which Respondent No. 2 upheld the First and Second Orders.

2.8 It is thus, that the Petitioner has filed the present Writ Petition impugning the Orders dated 13th August 2021, 13th October 2022, and 8th August 2024 (collectively referred to as '**Impugned Orders**').

III. Submissions on behalf of the Petitioner

3. At the outset, Mr. Bansode, Learned Counsel appearing on behalf of the Petitioner, submitted that the Impugned Orders were passed by adopting a mechanical approach, without adequately appreciating the voluminous evidence on record, and absence of any application of mind, and crucially, without providing sufficient, cogent reasons.

4. Mr. Bansode then took pains to point out that the claim of Respondent No. 5 to the said hutment was based on an Agreement for Sale which was dated 20th September 2007, and was executed between Respondent No. 5 and one Aruna Appa Kate, in respect of hutment no. 213 and not the said hutment, i.e. hutment no. 325. He pointed out that the name of the Petitioner had been included in Annexure II on the basis that the Petitioner was in occupation of hutment no. 325. He thus submitted that Respondent No. 5 was in no manner connected with hutment no. 325.

5. Mr. Bansode then further pointed out that when Respondent No. 5 in the year 2012 made the initial application to Respondent No. 4 claiming inclusion of her name in Annexure II, Respondent No. 5 had failed to mention that she had allegedly purchased the said hutment same from a third party. Mr. Bansode also pointed out that at the time of the alleged execution of the agreement of sale dated 20th September 2007, Respondent No. 5 was only a student aged 20 with no discernible source of income. He further stressed that Respondent No. 5 had failed to explain the source of funds used for the alleged purchase of the said hutment, which formed the very basis of her claim for inclusion in Annexure II.

6. Mr. Bansode further submitted that the Respondents adopted a hyper-technical approach, thereby overlooking a wealth of documentary evidence on record that conclusively proved the Petitioner's continuous occupation and ownership of the said hutment. He pointed out that this evidence included, but was not limited to, (i) the agreement for sale deed 8th dated July 1990, (ii) the Petitioner's Aadhar Card bearing the same address as the said hutment, (iii) the agreement executed by the Petitioner and Respondent No. 7 (the builder), wherein the builder paid the Petitioner monthly rent from 23rd January 2013, until December 16, 2017, for vacating the said hutment during re-development, (iv) bank statements of the Petitioner proving the receipt of monthly rent from Respondent No. 7, and (v) the notice of Special General Meeting dated 8th December 2014, from Respondent No. 6 society, which was duly served upon the Petitioner.

7. Mr. Bansode then submitted that the original Annexure II, which included the Petitioner's name as an 'eligible tenant', was initially granted by Respondent No. 4, after following a meticulous process of due verification and scrutiny of all the relevant documents as presented. Therefore, Mr. Bansode contended that Respondent No. 4 had abused its power and gravely erred in reversing its own prior order without providing any adequate or justifiable reasons for doing so.

8. Without prejudice to the above, Mr. Bansode further argued that there has been an inordinate and unexplained delay by Respondent No. 5 in approaching Respondent No. 3 by way of the First Appeal. He pointed out that the Petitioner's name was included in Annexure II in 2010, whereas Respondent No. 5 filed the First Appeal only in 2019, amounting to a delay of almost 9 years. He thus submitted that the First Appeal filed by Respondent No. 5 ought to have been dismissed outright solely on the grounds of this egregious and unexplained delay.

9. Based on these submissions, Mr. Bansode concluded that the Impugned Orders are perverse and bad in law, and he accordingly prayed that they be quashed and set aside.

IV. Submissions on Behalf of the Respondents

10. Ms. Goswami, appearing on behalf of the Respondent authorities, sought to justify the Impugned Orders, asserting that they were well-reasoned and in no manner were the same either perverse or illegal.

11. She submitted that Respondent No. 4 had passed the First Order after meticulously scrutinizing the documents submitted by Respondent No. 5. Furthermore, she contended that Respondent No. 4 had recorded clear reasons for replacing the Petitioner's name in Annexure II with that of Respondent No. 5. She highlighted that the First Order explicitly held that the Petitioner was ineligible to avail of the benefit under the Slum Act because (i) the Petitioner had already availed the benefit of the Gharkul Scheme of the Government at his native place in Village Dhuldev in Satara District; and (ii) Respondent No. 5 had submitted independent evidence to prove that Respondent No. 5's mother was an 'eligible tenant' under the provisions of the Slum Act. Thus, she maintained that the Impugned Orders were speaking orders and were indeed well-reasoned.

12. She then submitted that the First Order had been affirmed and upheld by Respondent Nos. 3 and 2, through the Second and Third Orders, respectively. Therefore, she argued that the Impugned Orders warranted no intervention by this Court.

V. Rejoinder Submissions on Behalf of the Petitioner

13. In response to the Respondents' submissions, Mr. Bansode clarified that while it was undisputed that the Petitioner owned some agricultural land in Satara, he had demonstrably moved to Bombay (as it then was) in 1980, along with his brother (who is the father of Respondent No. 5), specifically to earn his livelihood. He asserted that the Petitioner has been continuously living in Mumbai ever since and had been working as a labourer, having purchased the said hutment with his hard earned money from such work.

14. He then pointed out that Respondent No. 3 and Respondent No. 4 had also given different reasons for replacing the Petitioner's name with that of Respondent No. 5. He contended that while Respondent No. 4 allowed the name of Respondent No. 5 to be included in Annexure II primarily on the basis that the Petitioner had obtained benefit under the Gharkul Scheme, Respondent No. 3 had dismissed the Petitioner's appeal against the First Order on the premise that the Petitioner had not produced sufficient evidence of his continuous possession of the said hutment. Mr. Bansode emphatically reiterated that observation of Respondent No. 3 regarding the Petitioner's occupation of the said hutment was already on record, which clearly established the Petitioner's continuous possession of the said hutment and which was the very basis on which the Petitioner's name had been included in Annexure II.

VI. Conclusion

14. Having carefully heard the learned counsel for all Parties and having perused the Impugned Orders we have no hesitation in holding that the Writ Petition deserves to be allowed for the following reasons:

- A. It is not in dispute that the Petitioner's name was originally included in Annexure II as a tenant eligible to claim benefit under the provisions of the Slum Act in respect of the said hutment. This inclusion was not a mere formality but was after a due and rigorous scrutiny of all relevant documents by the Competent Authority (Respondent No. 4) itself.

- B. A plain reading of the First Order makes clear that the same is *ex-facie* unsustainable and demonstrably flawed. Though the First Order cursorily mentions that the Petitioner had availed of the benefit of another housing scheme (Gharkul Scheme) in Satara or that Respondent No. 5's mother was an 'eligible tenant', it fails to provide a single clear, specific, and legally sound reason for suddenly holding the Petitioner ineligible. *Crucially*, the order does not set out any specific provision of law which was allegedly violated by the initial inclusion of the Petitioner's name in Annexure II. In our considered view, it was incumbent upon Respondent No. 4 to provide detailed and justifiable reasons for revoking the Petitioner's status as an 'eligible slumdweller', especially given its own prior determination. However, Respondent No. 4 has not even so much as attempted to do so. This glaring omission renders the decision patently arbitrary, illegal, and perverse.
- C. Accordingly, the Second and Third Orders which merely upheld the First Order, are also similarly illegal and fundamentally flawed since they rest entirely on the basis of the First Order. The same are also bereft of any independent reasons to justify how (i) the Petitioner having been held eligible would how suddenly become ineligible and (ii) the basis on which Respondent No. 5 would be eligible in respect of the said hutment to have her name included

in Annexure II. Thus, these Orders would have to be set aside as being wholly arbitrary, illegal and perverse.

D. Given the lack of clear reasoning and the apparent inconsistencies, we are compelled to set aside all the Impugned Orders. We accordingly remand the matter to Respondent No. 4 to decide the Application afresh. In doing so, Respondent No. 4 must consider all the material on record, and based thereon decide the Application filed by Respondent No. 5 after dealing with all the material and providing comprehensive, explicit, clear and legally sound reasons for any decision that Respondent No. 4 will take.

15. In view of the above, the present Writ Petition is accordingly disposed of. No costs.

16. In view of disposal of Writ Petition, Interim Application does not survive and is accordingly disposed of.

(ARIF S. DOCTOR, J.)

(G. S. KULKARNI, J.)