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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4560 OF 2025

Surekha Manohar Rajbhar ... Petitioner
V/s.
Slum Rehabilitation Authority & Ors. ... Respondents

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Mr. Vinod P. Sangvikar for the petitioner.

Ms. Dhruti Kapadia with Ms. Kavita Dhanuka for
respondent No.1-SRA.

Smt. M.S. Srivastava, AGP for the State.

CORAM : AMIT BORKAR, J.

DATED : APRIL 7, 2025

PC.:

1. Challenge in the present writ petition is to the order passed by the Appellate Authority under the provisions of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (hereinafter referred to as "the Slum Act"). The petitioner assails the legality and propriety of the order whereby the Appellate Authority has remanded the matter to the First Authority for a fresh adjudication.

2. By the impugned order, the Appellate Authority has remitted back the proceedings to the First Authority to adjudicate the eligibility of the parties as on 1st January 2000. On perusal of the record and in particular the order passed by the First Authority, it

becomes evident that the crucial and mandatory inquiry as to the existence of the structure as on 1st January 2000, which constitutes the foundational requirement for determining eligibility under the Slum Act and the relevant Government Resolutions, was not undertaken. Further, the Appellate Authority has also observed that the original owner was not impleaded as a party to the proceedings, thereby violating the principles of natural justice and fair play. Considering both these vital aspects, namely (i) the absence of a jurisdictional finding and (ii) the non-joinder of a necessary party, in my considered opinion, the order of remand passed by the Appellate Authority is legal, proper, and warranted in the interest of justice.

3. Learned Advocate for the petitioner submits that the survey of the slum area was already completed and the petitioner was found in possession of the structure in question. However, mere possession, without the necessary jurisdictional finding as to the existence of the structure as on 1st January 2000, cannot clothe the occupant with the rights and benefits under the Slum Act. The statutory scheme contemplates eligibility on the basis of existence of the structure prior to the cut-off date, which goes to the root of the matter. In the absence of such a jurisdictional finding, the entire determination is rendered unsustainable. The Appellate Authority, in exercise of its statutory powers, was therefore fully justified in remanding the matter for a de novo adjudication. No case for interference with the impugned order in exercise of the writ jurisdiction under Article 227 of the Constitution of India is made out. The supervisory jurisdiction of this Court is to be

exercised sparingly and only to correct jurisdictional errors, patent illegalities or perversities. No such case is demonstrated.

4. The writ petition is accordingly disposed of in the aforesaid terms. No order as to costs.

(AMIT BORKAR, J.)