

Mr. Yashodeep Deshmukh i/by Mr. Amit T. Dubey, for Petitioner.
Mr. Drupad Patil with Mr. Ishwar Nankani, Mr. Huzefa Khokhawala, Mr. Karan Parmar i/by Nankani and Associates, for Respondent No.1.
Ms. Ravleen Sabharwal with Mr. Prakhar Tandon i/by RS Justicia Law Chambers, for Respondent No.2.
Mr. Y.D.Patil, AGP for State.

DATE : 21 AUGUST 2025

1. Heard the learned Counsel for the parties.
2. The Petitioner takes exception to an order dated 1 August 2025 passed by the Chief Executive Officer, Maharashtra Maritime Board, directing the Petitioner to remove the unauthorized structure / stall admeasuring 100 sq.ft., within the Bandra Port limits at Ganesh Nagar, Band Stand, Bandra, Mumbai.
3. Mr. Jayesh Gawade was the original occupant of the subject structure. Mr. Jayesh Gawade had sold the said structure to Mr. Viral Parekh, under an Agreement dated 2 May 2008. Mr. Parekh sold the subject structure to Amina Shafi Peerbhoy under an agreement for sale dated 10 February 2016. The Petitioner has acquired the subject premises vide agreement for sale, irrevocable Power of Attorney and an affidavit dated 29 November 2021.

Since then the Petitioner has been in absolute occupation and possession of the subject structure.

4. Mr. Deshmukh, learned Counsel for the Petitioner submitted that, subject structure is the protected structure under the Maharashtra Slum Area (Improvement, Clearance and Redevelopment) Act, 1971. The Competent Authority under the Slum Act, has carried out a survey. The authorities under the Maharashtra Maritime Board Act, were informed by the Deputy Collector (Encroachment and Removal) and Competent Authority, Bandra I, that the issue of determination of the eligibility of the slum dwellers including the occupants of the subject structure was under process and the action of removal of the unauthorized structures shall be taken thereafter. The Competent Authority under the SRA has yet not determined the eligibility of the Petitioner. Therefore, the impugned action, while the issue of determination of the eligibility for rehabilitation and resettlement under consideration of the competent authority, would be wholly illegal and unjustified. Mr. Deshmukh, invited attention of the Court to the documents, especially that of Jayesh Gawade, which indicate that his name was included in the voter's list prepared in the year 1996.

5. Mr. Patil, learned Counsel for Respondent No.1, would submit that under no circumstances, the Petitioner would be entitled to the protection as the Petitioner has purportedly acquired the subject structure in the year 2021.

Laying emphasis on the Government Resolutions dated 16 May 2015 and 16 May 2018, Mr. Patil would submit that the protection is available to the persons who were in the occupation of the protected structure on the date of the respective Government Resolutions.

6. The petitioner seems to have acquired the subject structure from Amina Shafi Shaikh Peerbhoy under an agreement for sale dated 29th November, 2021. The reliance on the Government Resolutions dated 16th May, 2015 and 16th May, 2018 does not advance the cause of the petitioner. The Government Resolution dated 16th May, 2015 was issued to give protection to the structures which existed on 1st January, 2020 and since prior thereto and the persons who were in actual occupation of such protected structures. Under Clause (1)(c) of the said GR, on which reliance was placed by Mr. Deshmukh, in case of a protected structure, if the occupant had no documents to show his possession since prior to 1st February, 2000, then such occupant could produce the requisite document originating one year preceding the application, provided he was then residing in the protected structure. The object of the said Government Resolution seems to be to grant protection to the occupants, who were in the occupation of the protected structure as of the date of the Government Resolution.

7. The same scheme permeates the Government Resolution dated 16th

May, 2018 with the change that the Structures which were in existence on 1st January, 2011 or since prior thereto and the occupant of such structures were to be granted the protection upon payment of the occupation transfer fee.

8. The submission of Mr. Deshmukh that whosoever happens to occupy the protected structure at any time thereafter, loses sight of the fact that the object of granting protection to eligible slum dwellers would be defeated if such construction is made. Resultantly, the petitioner, who has purportedly acquired the subject structure on 29th November, 2021 does not deserve protection.

9. Hence, the petition stands dismissed.

(N.J.JAMADAR, J.)