

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
REVIEW PETITION NO.66 OF 2025
IN
WRIT PETITION NO.3072 OF 2023

Rukhsana Raffique Shaikh & Ors. ...Petitioners
Versus
Quresha Gulam Mustafa Khan & Ors. ...Respondents

Ms. Vasanti Dighe a/w. Mr. Durgesh Rege and Mr. Anvay Homkalas,
for the Petitioners.
Mr. Pradyumna D. Sharma a/w. Mr. Sandeep J. Pawar, for the
Respondent Nos.1 and 2.

CORAM: MADHAV J. JAMDAR, J.
DATED : 18th JUNE 2025

P. C.:

1. Heard Ms. Dighe, learned Counsel appearing for the
Petitioners and Mr. Sharma, learned Counsel appearing for the
Respondent Nos.1 and 2.

2. By the present Review Petition, the Petitioners are seeking
review of the order dated 11th March 2025 passed by this Court in
Writ Petition No.3072 of 2023. By the said order dated 11th March
2025, the said Writ Petition has been dismissed.

3. It is the submission of Ms. Dighe, learned Counsel appearing for the Petitioners that additional issue (at page No. 140 of the compilation) “whether the Court has jurisdiction to try and interfere” has been framed in the suit by the learned Trial Court by the order dated 1st August 2011. However, the said issue was not considered while passing the Judgment and Decree of the learned Trial Court. She submits that the copy of the Notification issued by the Deputy Chief Executive Officer of Maharashtra Slum Improvement Board, Bombay dated 22nd January 1976 has been produced before the learned Trial Court. Learned Counsel also points out the order dated 15th July 2013 regarding admissibility of documents (page 102 of the compilation) passed by the learned Judge of the Small Causes Court, Mumbai, by which the said Notification dated 22nd January 1976 has been exhibited as Exhibit-58. Learned Counsel also points out the ground Nos.[B] and [D] (at page Nos.16 and 17 of the Writ Petition) raised in the Writ Petition. Learned Counsel also points out the decision of the Division Bench of this Court in the case of ***Satish Shahu Bane vs. Dattatraya Tanaji Padam***¹. Learned Counsel submits that by the said Notification issued by the Deputy Chief Executive Officer,

1 2019 SCC OnLine Bom 4419

Maharashtra Slum Improvement Board, Bombay dated 22nd January 1976, suit property has been declared as slum. The present suit has been filed on 17th April 2007 and therefore, filing of the suit without following the procedure as contemplated under Section 22 of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 is totally illegal and the decree passed is also illegal. To substantiate said contention, learned Counsel points out paragraph No.11 of the said decision of the Division Bench of this Court in the case of ***Satish Shahu Bane*** (supra). Ms. Dighe, learned Counsel submits that the point that the suit structure was declared as slum when the suit was filed was raised, however, not considered by this Court and therefore, the order needs to be reviewed and recalled.

4. On the other hand, Mr. Sharma, learned Counsel appearing for the Respondent Nos.1 and 2 states that the suit property on which suit structure was standing was although declared as slum by the said Notification dated 22nd January 1976, however, thereafter, the said slum declaration has been quashed and set aside by the order dated 15th May 2009 by learned Maharashtra Slum Areas Tribunal, Mumbai. He submitted that the said order

was challenged by the Petitioners before this Court by filing Writ Petition No.3685 of 2012. However, the said Writ Petition has been dismissed. He submitted that although when the suit was filed the said slum declaration was in existence, however, the learned Trial Court dismissed the suit filed by the Petitioners and the learned Appellate Court reversed the said decree and decreed the suit. He therefore, submitted that when the learned Appellate Court has decreed the suit, there was no slum declaration and therefore, the decree passed is legal and valid decree.

5. However, perusal of the order dated 11th March 2025 passed by this Court in Writ Petition No.3072 of 2023 shows that all these contentions are not taken into consideration. Ms. Dighe, learned Counsel appearing for the Petitioners states that these contentions were specifically raised while arguing the Writ Petition on 11th March 2025. Mr. Sharma, learned Counsel fairly states that although this point was not argued in detail, however, the same was mentioned by learned Counsel appearing for the Petitioners while arguing the matter.

6. In view of the above position, the Review Petition is allowed. The order dated 11th March 2025 passed in Writ Petition No.3072 of 2023 is quashed and set aside and said Writ Petition No.3072 of 2023 is restored to the file of this Court.

7. As the Writ Petition has been restored to the file of this Court by setting aside the said order dated 11th March 2025, the ad-interim relief granted by this Court by the order dated 10th March 2023 in Writ Petition No.3072 of 2023 shall remain in operation till the disposal of the said Writ Petition.

8. Writ Petition No.3072 of 2023 be listed before the regular Bench.

9. The Review Petition is allowed in above terms with no order as to costs.

10. Before parting with this order, this Court places on record that Mr. Pradyumna D. Sharma, learned Counsel has fairly stated that the said point regarding slum declaration was stated by learned Counsel appearing for the Petitioners when the Writ

Petition was argued before this Court on 11th March 2025. An Advocate shall, at all times, comport himself in a manner befitting his status as an officer of the Court. Mr. Pradyumna P. Sharma, learned Counsel has acted in accordance with said duty of an Advocate. This Court places on record appreciation of the conduct of Mr. Pradyumna D. Sharma, learned Counsel.

[MADHAV J. JAMDAR, J.]

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