



Ashwini

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 5671 OF 2024

Jijaba Dashrath Shinde ...Petitioner
Versus
The State of Maharashtra ...Respondent

WITH
CIVIL APPELLATE JURISDICTION
WRIT PETITION (ST) NO. 5149 OF 2024

Ashok Savala Kamble (Deceased), Surekha ...Petitioners
Ashok Kamble (Wife) & Ors
Versus
The Apex Grievance Redressal Committee, SRA ...Respondents
& Ors

Mr Vidryan S Daware, with Akhil Kupade, Prerna Pagare, for the
Petitioner in WPL/5671/2024.

Ms Archana Gaikwad, for the *Petitioner in WPST/5149/2024.*

Mr Yogesh Patili, i/b Vijay Patil, for *Respondent No. 2- SRA and
Respondent No. 5-AGRC in WPL/5671/2024.*

Mr Mayur Khandeparkar, with Shilpa Naik, Himanshi Mishra,
Rahul Arora & Akash Gupta, i/b Jeet Gandhi, for *Respondent
No. 3 in both matters.*

Ms Dhurti Kapadia, for the *Respondent-SRA in WPST/5149/2024.*

Ms Aparna Vhatkar, for the *Respondent No. 1-AGRC in
WPST/5149/2024.*

Ms Gaurangi Patil, AGP, for the *Respondent-State in
WPL/5671/2024.*

Digitally
signed by
ASHWINI
H
GAJAKOSH
Date:
2024.02.21
14:15:55
+0530

ASHWINI
H
GAJAKOSH

**CORAM G.S. Patel &
Kamal Khata, JJ.**
DATED: 21st February 2024

PC:-

1. It is an upsetting day for the High Court when we find it necessary to remind statutory authorities, including the Slum Rehabilitation Authority (“SRA”) and the Apex Grievance Redressal Committee (“AGRC”), that if the Slum Act is a welfare legislation, the welfare is not that of builders. We also express our extreme displeasure at the manner in which the AGRC is conducting and discharging — or more accurately not conducting nor discharging — its required functions.

2. Just a few dates in this matter will make it amply clear why we have been compelled to make these observations and to issue the directions that follow. Writ Petition (St) No. 5149 of 2024 was filed by ten persons on 15th February 2024 through Ms Archana Gaikwad as a Petition on the Appellate Side within the roster of a Single Judge Bench of this Court. In parallel, on 17th February 2024, two persons filed Original Side Writ Petition (L) No. 5671 of 2024 within the roster assignment of this Division Bench. To cut a long story short, both Petitions complained that the Petitioners had been given notice on 7th February 2024 by virtue of an order under Sections 33 and 38 of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 to vacate the premises that they were occupying within seven days. That period ended roughly on 18th February 2024, a Sunday.

3. That entire weekend was a three-day weekend. The Writ Petitioners in Writ Petition (St) No. 5149 of 2024 filed an appeal before the AGRC on 13th February 2024. The two Writ Petitioners in Writ Petition (L) No. 5671 of 2024 went to AGRC on 16th February 2024.

4. All these Petitioners states that they had been put in possession on 17th February 2004/2006, 18 or 20 years ago. They were original slum dwellers on a plot of land of Khan Abdul Gafar Khan Road, Worli Dairy, Mumbai 400 018. They were told that their premises were Permanent Alternate Accommodation. Abruptly, on the application of the developer Sattadhar Construction Pvt Ltd, the Letter of Intent (“LoI”) was amended and these two buildings which were without an Occupation Certificate but which were fully occupied were suddenly deemed to be or treated as transit camp and required to be pulled down for the completion of the project. The developer was put to some terms including paying Rs. 19,500/- per month as transit rent and 36 months of rent was to be deposited in advance. This is the factual background.

5. What we fail to understand is how the SRA, which is charged with looking after the welfare of the slum dwellers, can possibly decide after 18 or 20 year gap that seven days is enough to uproot entire families and households. These are human beings. They have families. They have not pieces on some chess board that can be moved around or even swept of the board. The last thing we want to

hear is that once money is flung at these persons their concerns and their very humanity are immaterial.

6. Even if a statute prescribes periods of 24 hours, 36 hours or 72 hours it does not mean that the authority has to give only that period to vacate. We now propose to take the liberty of issuing a direction applicable to all authorities everywhere that no notices for eviction are to be given mentioning only hours. A specific date must be mentioned and that date cannot be over a weekend when Courts are unavailable to the affected persons. Justice under our Constitution must mean the right to expect fair treatment from an administrative authority; and, if not, the right to approach a court for redressal. Justice cannot be an empty promise.

7. What happened in this case is even more alarming. We ourselves were informed by the Court Registry late in the evening on Saturday, 17th February 2024 that urgent applications had to be made. Appeals had been filed to the AGRC but the AGRC was “unavailable”, something we do not even pretend to understand. Apparently the AGRC can be unavailable but constitutional Courts must be available. This is a remarkable proposition. Even more complicated was the fact that Ms Gaikwad’s Petition had to be listed before the learned Single Judge unless it was otherwise administratively assigned to us. The Hon’ble the Chief Justice was not in town. He was outstation at an official event. The Registrar (Judicial-I) had to contact the Hon’ble the Chief Justice on the telephone and obtain administrative orders assigning the Single Judge Petition to this Division Bench. Then this Division Bench

assembled online. Advocates were present for SRA but had no instructions (understandably). Notice could not be given to the developer. We therefore stayed the impugned action and held it over to today.

8. If the High Court can assemble at short notice to hear a matter like this, we demand an explanation as to how the AGRC can say it is unavailable. Ms Gaikwad's appeal is not at the last minute, as she points out. It was filed on 13th February 2024. Since then, the AGRC has not found the time to take up that matter for even an interim stay. We are now told that it will be meeting two days from now, i.e., 23rd February 2024.

9. We are having none of it.

10. The AGRC will meet today at 5.00 pm. It will take up both appeals at least for the limited purpose of granting a stay. We expect a signed order to be made available to us at 10.30 am tomorrow, 22nd February 2024. If this is not done, we will proceed against every member of the AGRC. In future we expect the AGRC to be alive to these issues and to be available just as we are whenever there is emergency of this kind.

11. We make it clear that there is no question looking to the convenience of the members of the AGRC in the facts that we have narrated above. If there is non-compliance we will not hesitate to use powers including those in contempt against these serving bureaucrats. We are not concerned with their availability or other

prior commitments. All those other commitments will wait till Friday, 23rd February 2024.

12. We permit the AGRC to conduct the hearing by video conferencing. It is not necessary that they all meet in person. The online hearing or the venue must be informed to the Advocates appearing before us today.

13. Between them the AGRC and the SRA must manage their affairs so that things are not required to be done at the last minute on a weekend. This is a truly fantastic situation where the SRA demands possession over a weekend and the AGRC is unavailable to hear an appeal in that time.

14. The present status quo will be maintained until tomorrow, 22nd February 2024.

15. In the meantime, we are not even remotely satisfied that the developer can simply get away by saying that deposit of cash has been made. An even worse argument is that several hundreds of others have accepted transit rent and have vacated. This is no way to treat human beings. The developer will ensure that alternative rental premises are available in the vicinity. If the developer has access to these premises the developer will arrange for these to be shown to these Petitioners and their Advocates in the course of the day today.

16. Parties will not only act on an authenticated copy of this order, but since it has been dictated in Court, it will be

communicated to the members of the AGRC by telephone immediately.

17. List these matters first on board tomorrow, 22nd February 2024.

(Kamal Khata, J)

(G. S. Patel, J)