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Sayali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SAYALI
DEEPAK
UPASANI

WRIT PETITION NO. 7099 OF 2016

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Ganpat Krishna Parte

... Petitioner

V/s.

1. High Power Committee, Govt. of Maharashtra
2. Secretary,
Slum Rehabilitation Authority
3. Assistant Commissioner, 'N' Ward &
the Competent Authority
4. Nalanda CHS Ltd (Regd)
5. Money Magnum Nest Pvt. Ltd.

... Respondents

Mr. Ashutosh M. Kulkarni i/b V. S. Daware, for
Petitioner.

Mr. J. G. Aradwad (Reddy), for Respondent nos. 1 &
2.

Mr. D. R. Kawale, for Respondent No. 3 – BMC.

Ms. Riya Thakkar i/b Mr. Tushar Goradia, for
Respondent No. 5.

CORAM : AMIT BORKAR, J.

RESERVED ON : AUGUST 24, 2026

PRONOUNCED ON : AUGUST 28, 2026

JUDGMENT :

1. The petitioner has challenged the order dated 01st August, 2015 passed by respondent no. 1 in Application No. 292 of 2013. By the present petition, the petitioner seeks that the said order be quashed and set aside.

2. The facts and circumstances because of which the present petition has been filed are as follows. In the year 1976, the Assistant Commissioner, 'N' Ward issued a Pitch Card in respect of Hut No. 85/6 in the name of the petitioner's brother, Madhukar G. Parte. The said hut was shown for residential purpose. In the year 1985, the petitioner started residing in Hut No. 478 along with his wife and other family members. For the said hut, he obtained a Residential Electricity Connection. Thereafter, in the year 1992, the petitioner started a canteen business in the said hut and obtained a Commercial Electricity Connection for carrying on the said business. On 29 May 2000, the Assistant Commissioner, 'N' Ward issued Annexure-II for development of the said slum under the Slum Rehabilitation Scheme. In the said Annexure-II, the Censused Hut was shown at Serial No. 55 on the basis of the Pitch Card issued in the year 1976. The hut in which the petitioner was residing before 1 January 1995 was shown as eligible for residential purpose in the name of the petitioner's wife, Kalawati G. Parte. On the same date, i.e. 29 May 2000, the Assistant Commissioner, 'N' Ward issued a Slum Plan along with the said Annexure-II. In the said

plan, the two huts were shown separately and there was no common area shown between them. In the year 2005, the petitioner filed an Appeal before the Secretary, Slum Rehabilitation Authority, seeking change of user of Hut No. 55. According to the petitioner, the hut was wrongly shown as residential instead of commercial in Annexure-II. On 20 November 2006, the Secretary, Slum Rehabilitation Authority forwarded the petitioner's Appeal to the Assistant Commissioner, 'N' Ward for taking a decision. Thereafter, in the year 2008, the Secretary, Slum Rehabilitation Authority issued Annexure-II to Nalanda Co. Op. Hsg. Soc. In that Annexure-II, the petitioner's wife was declared ineligible. According to the petitioner, this was done without issuing any 'Show Cause Notice' to her and without giving her an opportunity of hearing.

3. On 02 June 2008, the Assistant Commissioner, 'N' Ward forwarded the electricity bill produced by the petitioner to Reliance Energy Ltd. for verification. On 04 June 2008, the Deputy General Manager of Reliance Energy Ltd., by his letter bearing No. 215/2008, informed the Senior Colony Officer, Eastern Suburb, that the electricity connection had been obtained in the year 1992. It was stated that the connection was still running and that it was a commercial connection standing in the name of the petitioner. On 13 October 2008, the Assistant Commissioner, 'N' Ward rejected the petitioner's claim for Commercial Purpose. Being dissatisfied with this decision, the petitioner filed an Appeal before the Secretary, Slum

Rehabilitation Authority. Thereafter, on 21 September 2012, the Tahsildar, Slum Rehabilitation Authority, once again forwarded the electricity bill produced by the petitioner to Reliance Energy Ltd. for verification. On 24 December 2012, the Deputy General Manager of Reliance Energy Ltd., by email, informed the Tahsildar, Slum Rehabilitation Authority that the electricity connection had been obtained in the year 1992. The said connection was still running and was a commercial connection standing in the name of the petitioner. On 02 September 2013, the Secretary, Slum Rehabilitation Authority rejected the petitioner's claim and confirmed the decision of the Assistant Commissioner, 'N' Ward.

4. According to the petitioner, this decision was taken without giving him an opportunity of hearing and without following the Principles of Natural Justice. In the year 2013, therefore, the petitioner challenged the said decision of the Secretary, Slum Rehabilitation Authority before the High Power Committee, Government of Maharashtra, by filing Application No. 292 of 2013. On 01 August 2015, the High Power Committee, Government of Maharashtra, dismissed the petitioner's application. The reason given was that the electricity bill was only secondary proof for deciding the petitioner's eligibility. Thereafter, on 20 August 2015, the Advocate for the petitioner addressed a letter to the High Power Committee, Government of Maharashtra. By the said letter, the petitioner pointed out provision No. 5.1 of the Development Control

Regulation. According to the petitioner, under the said provision, an Electricity Bill is treated as proof of eligibility. The petitioner, being aggrieved by the order dated 01 August 2015, has therefore filed the present petition.

5. Mr. Ashutosh Kulkarni, learned Advocate appearing for the petitioner, submitted that Respondent Nos. 1 to 3 failed to consider that the petitioner had a Commercial Electricity connection, namely LF-2, in his name prior to 01 January 1995. According to him, this clearly shows that the structure bearing Annexure-II No. 55 was being used for commercial purpose and was therefore a Commercial structure. It was submitted that the structure was wrongly shown as residential in Annexure-II. The petitioner, therefore, ought to have been declared eligible for Commercial purpose, since there was material to show that the said premises were being used for Commercial purposes prior to 01 January 1995. He submitted that the petitioner has been residing in Hut Annexure-II No. 478 from prior to 01 January 1995 till today. At the same time, he has been carrying on his business in Hut Annexure-II No. 55. According to him, both the huts have separate electricity bills from a period prior to 01 January 1995. These electricity bills, according to the petitioner, show that the two huts were separately existing even before 01 January 1995. Therefore, the commercial use of Hut Annexure-II No. 55 could not have been ignored.

6. He submitted that Regulation 33(10) of the Development Control and Promotion Regulation, 1991, as well as the

Government Regulation dated 16 May 2015, specifically provide for production of any one document prior to 01 January 2000 for declaring a slum dweller eligible under the Slum Rehabilitation Scheme. According to him, the petitioner had produced the relevant electricity record much before the said date and the same was sufficient to consider his claim. However, Respondent Nos. 1, 2 and 3 did not properly consider the said provision. They therefore wrongly came to the conclusion that the structure of the petitioner bearing Sr. No. 55 was not protected for Commercial purpose.

7. Ms. Riya Thakkar, learned Advocate appearing for respondent no. 5, submitted that Respondent No. 5 has already handed over a total of 58 Project Affected Persons ("PAP") tenements, consisting of both residential and commercial rehabilitation units, to the Estate Department of the Slum Rehabilitation Authority. The residential tenements were handed over vide letter dated 21 April 2022 and the commercial rehabilitation units were handed over vide letter dated 8 January 2025. According to her, the said handover has been acknowledged by the concerned authority. She submitted that in the year 2021, Respondent No. 5 had offered possession of the residential premises to the petitioner. However, the petitioner did not accept the possession offered to him. Therefore, by its letter dated 9 February 2026, Respondent No. 5 handed over the residential premises allotted to the petitioner to the Estate Department of the Slum Rehabilitation Authority. It was

submitted that the PAPs and the rehabilitation residential and commercial tenements allotted to those slum dwellers who did not accept possession have been handed over to the Estate Department of the Slum Rehabilitation Authority. In these circumstances, Respondent No. 5 has no authority to allot or grant any commercial tenement in the rehabilitation building to the petitioner, since the same is now within the control of the Slum Rehabilitation Authority.

8. It was therefore submitted that the above facts show that the rehabilitation obligations of Respondent No. 5 have substantially been completed. According to Respondent No. 5, rights have accrued in favour of the eligible slum dwellers under the Scheme. The petitioner is now seeking to reopen the question of his eligibility and his claim for a commercial tenement, even though the statutory authorities have already considered the issue and have concurrently decided against him. It was submitted that the project has substantially been implemented. Therefore, if the present petition is entertained at this stage, it would cause serious prejudice to the rights of several persons who are not parties before this Court. It would affect the redevelopment project, in which the rehabilitation component had been completed several years ago.

9. Mr. Arwad, learned Counsel appearing for respondent Nos. 1 and 2, submitted that under the Government Resolution dated 16 May 2015, seven documents have been specified for considering the eligibility of a slum dweller. According to him,

the documents at Serial Nos. 1 to 6 relate to proof of residential occupation of the premises. The document mentioned at Serial No. 7 is the relevant document for establishing that the premises were being used for commercial purpose. Therefore, merely producing an electricity bill showing a commercial connection is not sufficient to establish the petitioner's entitlement to a commercial rehabilitation premises.

Reasons and Analysis

10. I have considered the Petition, the submissions made by the learned Advocates appearing for all the parties and the material which is placed before the Court. I have considered the Government Resolution dated 16 May 2015 and the communication of the Assistant Commissioner, 'N' Department concerning Annexure-II Serial No. 55. The main thing which is required to be seen is whether the petitioner has shown, from the documents which can be considered under the said Government Resolution, that Hut No. 55 was being used for commercial purpose on or before the relevant qualifying date. If the petitioner is able to establish this, then it will have to be seen whether on that basis he can claim a commercial rehabilitation premises.

11. Mr. Ashutosh Kulkarni, learned Advocate appearing for the petitioner, submitted that the petitioner was having Commercial Electricity connection, namely LF-2, in his name before 01 January 1995. According to him, because of this, Hut No. 55

shown in Annexure-II could not have been treated as a residential hut. He submitted that the petitioner was residing in Hut No. 478 and was carrying on his business in Hut No. 55. According to him, both the huts were having separate electricity connections even before 01 January 1995. On this basis, it was submitted that the two huts were separately existing and Hut No. 55 was being used for commercial purpose.

12. This submission of the petitioner cannot be left out because the electricity record is a relevant document. The Government Resolution includes electricity records amongst the documents which can be considered for showing that the hutment was existing on or before 01 January 2000. In the Statement attached to the Government Resolution, Serial No. 2 specifically mentions “Documents/records/bills of electric connection given by authorized electric company to that hutment.” Therefore, the electricity bill produced by the petitioner is required to be considered. It can show that the hutment was existing and that an electricity connection was given to that hutment. Thus, it cannot be said that the electricity bill has no value whatsoever. But when the question of the actual use of the hut is considered, the position becomes different. The Government Resolution does not provide that every electricity bill, even if it is for a commercial connection, will become final proof of commercial use. Paragraph 1(a) of the Government Resolution requires “At least one compulsory proof from the accompanying statement” for deciding whether the

hutment was existing on or before 01 January 2000 and was eligible for protection. The accompanying Statement contains seven types of documents. Serial Nos. 1 to 6 include electoral roll, electricity records, enumeration form, property tax assessment, non-agricultural permission and share certificate. Serial No. 7 has been separately provided where the hutment is claimed to have been used for commercial, professional or industrial purpose. It refers to a “Permit for agency (Gumasta)/mess” or “Restaurant licence/tax receipt” obtained on or before 01 January 2000 and mentioning the hutment number or definite location, in respect of a hutment used for “professional or industrial nature use or being used besides for residential purposes.” The separate mention of Serial No. 7 therefore cannot be ignored. Serial No. 2 is relating to the electricity connection and is relevant for showing the existence of the hutment. Serial No. 7 is relating to the document showing the nature of use where the hutment is claimed to have been used for professional, industrial or other non-residential purpose. Thus, the Government Resolution makes a difference between proving that the hut existed and proving for what purpose the hut was being used.

13. If the petitioner's submission is accepted, then every electricity bill showing a commercial connection would have to be treated as proving commercial eligibility. Such interpretation cannot be taken from the language of the Government Resolution. The seven documents cannot be treated as if each

one of them proves all the requirements. The document at Serial No. 2 may show the existence of the hutment on the relevant date. But when a specific commercial entitlement is claimed, the proof regarding commercial or professional use becomes important. Serial No. 7 has been separately provided for that purpose and its requirement cannot be made ineffective.

14. The BMC communication placed on record requires consideration. It records that the hut shown in Annexure-II at Serial No. 55 was shown in the Municipal Corporation records as residential. It records that the occupant had produced proof showing residence before 01 January 1995 and that his name was appearing in the voter list dated 01 January 1995. It is recorded that the Municipal Corporation records showed his residence in the hut. These entries cannot be ignored merely because the petitioner has produced a commercial electricity bill.

15. There is another important part of the same BMC communication. As per the municipal record, the hut was residential. It was stated that if the hut was being used for non-residential purpose, the residential entry concerning the hut was required to be cancelled. It was stated that if the applicant was residing in the hut and at the same time was using it for non-residential purpose, there ought to have been two separate entrances for the two purposes. The income-tax returns for the years 2003-04 and 2004-05 were found to describe the premises as "Residential". The BMC communication records that, except

for the electricity bill, the applicant had not produced any other proof such as a telephone bill or Gumasta licence. On this basis, the municipal authority came to the conclusion that the hut was being used as a residence and was not eligible to be treated as a non-residential hut under the Slum Rehabilitation Authority scheme. Therefore, it cannot be said that the authorities ignored the electricity bill. The bill was considered, but the authorities found that the other material available on record was showing the premises as residential.

16. There is one factual aspect which requires to be noticed. The BMC communication placed on record refers to the applicant as “Shri Ganpat Krishna Patil”, whereas the present petitioner, according to the pleadings before this Court, is a different person. The BMC communication does not explain this difference in names. Therefore, I would not treat the said communication as conclusive against the personal claim of the present petitioner. However, since the communication concerns Annexure-II Serial No. 55 and deals with whether the said hut was residential or non-residential, its contents cannot be left out from consideration. Even if the communication is taken as relating to the premises in question, it does not establish the petitioner's commercial entitlement.

17. The petitioner has relied upon the fact that the commercial electricity connection was obtained in the year 1992 and that the electricity company thereafter confirmed that the connection was still running as a commercial connection in the petitioner's

name. This is relevant material and, to that extent, the petitioner's submission requires consideration. But the question before the Court is not whether a commercial electricity connection was existing. The question is whether such connection is sufficient to give the petitioner a right to a commercial rehabilitation tenement under the prescribed procedure. On considering the Government Resolution as a whole, such conclusion cannot be drawn.

18. The Government Resolution has prescribed a particular procedure for deciding eligibility. The Competent Officer is required to scrutinize the documents and thereafter take an appropriate decision after inspection. The procedure requires the relevant records and prescribed proofs to be considered along with spot inspection. Therefore, eligibility cannot be decided only by looking at one document separately without considering the other material relating to the hutment. The petitioner has relied upon the earlier qualifying date of 01 January 1995. This submission by cannot assist the petitioner because the Government Resolution dated 16 May 2015 records that the date 01 January 1995 prescribed under the Maharashtra Slum Areas Act for protection of hutments was changed to 01 January 2000 by the notification published in the Government Gazette dated 02 May 2014. Therefore, the earlier date of 01 January 1995 remains part of the factual history and the documents relating to that period may be considered. However, the petitioner cannot proceed on the basis that 01 January 1995

continued to be the governing qualifying date under the Government Resolution dated 16 May 2015.

19. The petitioner has relied upon the fact that the two huts were separately shown and that they had separate electricity bills. This may show that the two huts were separately existing. But this fact does not establish that one particular hut was being used for commercial purpose. The separate existence of two huts and the commercial use of Hut No. 55 are two different questions. An electricity record may assist in showing the first question. For the second question, the nature of use and the documents prescribed for proving such use have to be considered. The Government Resolution makes this distinction.

20. The submission of the petitioner based upon Regulation 33(10) and the Government Resolution dated 16 May 2015 cannot be accepted beyond this point. The authorities were required to consider the documents prescribed under the Government Resolution. But the requirement of one proof for establishing eligibility of a hutment cannot mean that every such document is sufficient for every separate entitlement. The Statement places electricity records at Serial No. 2, whereas documents such as Gumasta permit, restaurant licence or tax receipt are separately placed at Serial No. 7 for proving the relevant non-residential use. This distinction has to be given effect. It is important that the BMC record does not show that the petitioner had produced a Gumasta licence, restaurant licence, tax receipt or any similar document of the nature

mentioned in Serial No. 7. The communication, in fact, records that there was no other proof apart from the electricity bill. In these circumstances, the conclusion of the authorities that the commercial electricity bill by was not sufficient cannot be said to be without any basis. The said conclusion is in accordance with the distinction made in the Government Resolution.

21. I have considered the submissions of Ms. Riya Thakkar, learned Advocate for respondent no. 5, regarding the subsequent progress of the rehabilitation project. It was submitted that 58 PAP tenements, consisting of residential and commercial rehabilitation units, have been handed over to the Estate Department of the Slum Rehabilitation Authority. It was submitted that the residential premises offered to the petitioner were not accepted by him and that thereafter the petitioner's residential premises were handed over to the Estate Department by letter dated 09 February 2026. These facts concern the later stage of implementation of the scheme. They cannot by themselves create eligibility in favour of the petitioner if such eligibility was not established from the prescribed documents. At the same time, these facts are relevant while considering whether an old claim should now be reopened after substantial implementation of the rehabilitation scheme.

22. The Government Resolution considers the situation where a person was earlier declared ineligible. Paragraph 7 deals with the position where a hutment is subsequently found eligible under a changed criterion and the rehabilitation building is still

under construction. At the same time, it specifically provides that, “if the construction of all rehabilitation buildings of the concerned slum rehabilitation scheme has been completed, then it will not be possible to accommodate in those rehabilitation buildings such hutment dwellers who have been declared ineligible as per earlier criteria dated 01 January 1995.” Therefore, the stage of the rehabilitation project is a matter which has been recognized in the Government Resolution. Thus, the petitioner's claim has to be considered as per the documentary requirements applicable to him and keeping in view the stage of the rehabilitation project. The petitioner has not shown the prescribed document which establishes commercial use in the manner required for claiming commercial rehabilitation premises. Therefore, the subsequent progress of the project does not defeat any commercial right which is otherwise proved. But in the present case, the commercial right has not been established.

23. I have considered the petitioner's grievance that there was no effective opportunity of hearing. The material before the Court shows that the petitioner's claim was considered at different stages by the Assistant Commissioner, the Secretary, the Tahsildar and thereafter the High Power Committee. The electricity record was sent to the electricity company for verification. Thus, the material does not show that the electricity bill was ignored. On the contrary, it was sent for verification and the electricity company confirmed the date and nature of the

connection. Therefore, the real issue is not whether the electricity bill was considered, but what legal effect could be given to it under the Government Resolution. On this substantive issue, the petitioner's case cannot be accepted. The grievance regarding breach of natural justice, therefore, cannot by result in granting commercial eligibility to the petitioner. Even if the opportunity of hearing is taken to be inadequate, the Court cannot direct that a particular document should be treated as sufficient when the Government Resolution makes a distinction between proof of existence of the hutment and proof of its commercial use. A remand would not alter the basic position on the documents relied upon by the petitioner. The commercial entitlement still remains without the prescribed proof.

24. On considering the material as a whole, I find that the electricity bill relied upon by the petitioner does have evidentiary value. It can show that the hutment existed and that an electricity connection was given to it. The confirmation of the electricity company that the connection was commercial is a relevant circumstance. But the same does not by fulfil the separate requirement of showing that the premises were being used for commercial, professional or industrial purpose in the manner contemplated by Serial No. 7 of the Statement attached to the Government Resolution dated 16 May 2015. On the other hand, the municipal record shows the premises as residential. It records residence of the occupant and refers to the income-tax

returns describing the premises as “Residential”. It records that no proof such as a Gumasta licence was produced. This material gives a basis for the conclusion reached by the authorities. The petitioner has not placed before the Court any prescribed document which can displace this material and establish the claimed commercial use.

25. The petitioner may have established that a commercial electricity connection was existing. But that fact alone does not establish that Hut No. 55 was a protected commercial hutment under the Government Resolution or that the petitioner was therefore entitled to a commercial rehabilitation tenement. The conclusion reached by the authorities cannot, on the material placed before the Court, be said to be perverse or without supporting material.

26. In the result, the petitioner has not established sufficient ground for interference with the impugned order dated 01 August 2015. The claim for commercial eligibility cannot be granted merely because a commercial electricity connection was existing. The Government Resolution requires the proof regarding existence of the hutment and the proof regarding its commercial or professional use to be considered in their proper manner. The material produced by the petitioner does not satisfy the requirement for proving commercial use. The petition, therefore, cannot succeed on merits.

27. In view of the foregoing discussion and for the reasons recorded hereinabove, the following order is passed:-

- (i) The Petition is dismissed;
- (ii) The order dated 01 August 2015 passed by the High Power Committee, Government of Maharashtra, in Application No. 292 of 2013 is upheld;
- (iii) Rule is discharged;
- (iv) There shall be no order as to costs.

(AMIT BORKAR, J.)