

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO.455 OF 2017**

Manav Developers Pvt. Ltd.

.....Applicant

: Versus :

Jaysing Yashwant More and others

....Respondents

Mr. Siddharth Ronghe *for the Applicant.*

Mr. Manoj Nayak with Mr. Ajay Rathi and Mr. Akash Lokhande *for Respondent No.1 to 91.*

Mr. Deepak R. More with Mr. Shivram A. Gawade *for Respondent No.92 – SRA, Pimpri Chinchwad.*

Mr. Dinesh J. Haldankar, AGP *for the Respondent-State.*

CORAM : SANDEEP V. MARNE, J.

RESERVED ON : 25 AUGUST 2026

PRONOUNCED ON: 9 SEPTEMBER 2026

JUDGMENT :

1) The Applicant/Defendant No.11 has filed the present Revision Application challenging the Order dated 24 July 2017 passed by the 5th Joint Civil Judge Senior Division, Pune rejecting the Application filed by it under Order 7 Rule 11 (d) of the Code of Civil Procedure, 1908 (**the Code**) seeking rejection of the plaint on the ground that the suit is barred under the provisions of Section 42 of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (**Slum Act**).

2) The land bearing CTS no. 3491 to 3497 admeasuring 4737.02 sq.m., Survey no.16A/1, Bopodi, Pune is the subject matter of Special Civil Suit No. 1938 of 2016. The Suit is filed by 91 Plaintiffs, who are residents of Bhoite Chawl at the suit property, which has been declared as slum vide Notification dated 23 August 1979. Plaintiffs are aggrieved by the actions of Defendant Nos. 1 to 9, who are part of Slum Rehabilitation Authority of Pimpri Chinchwad Area (**SRA**), about the manner in which the survey is conducted and eligibility of the occupants is determined. The substantive prayers in the suit read thus:

A. That, the Hon'ble Court may be pleased to declare that the procedure, method as contemplated in the GR of 2008 being intentionally not followed by Defendant no. 1-9 in preparation of primary eligibility list i.e. impugned Schedule II Dt. 16/05/2015 is an illegal act of Defendant No. 1-9 only to benefit the defendant no. 11, therefore the Schedule II is bad in eyes of law is liable to be set aside in interest of justice.

B. Further the Hon'ble court may be pleased to declare that the defendants 1-9 and defendants no. 11 cannot dispossess the plaintiffs from their slum structure in the suit property without following due process of law in interest of justice.

C. Further the Hon'ble court by way of Mandatory injunction may be pleased to restrain the implementation and execution of SRA scheme and maybe directed to drop the scheme/proposal as started by the defendant no. 1 and its officers in the suit property i.e. the slum Bhoite Chawl considering the fact that the SRA i.e., Defendant no.1 itself has categorically mentioned that there can not be any SRA scheme in any plot, slum where there is concrete houses constructed under the Walmiki Ambedkar Awas Yojna and various State and Central Govt. Schemes.

D. Further the Hon'ble court by way of permanent injunction may be pleased to restrain defendant no.11 to 20 from giving any proposal of SRA without the consent of the plaintiffs in interest of justice and restrained permanently defendant no.1 to 20, their servants, agents or any person or persons claiming through or under them from entering upon the suit property for carrying on any construction and for any illegal activities in the interest of justice.

3) Applicant claims to be the purchaser of land bearing CTS no. 3491 to 3497 admeasuring 4737.02 sq.m, Survey no.16A/1, Bopodi, Pune vide registered sale-deed dated 6 November 2012. Applicant submitted proposal on 19 September 2013 for implementation of a Slum Scheme on the suit property. Applicant is impleaded as Defendant No. 11 to the Suit.

4) Applicant/Defendant No. 11 filed application at Exhibit 58 under Order 7 Rule 11(d) of the Code seeking rejection of the plaint on the ground that the suit is barred under the provisions of Section 42 of the Slum Act. The application was opposed by the Plaintiffs by filing their reply. By order dated 24 July 2017, the application has been rejected by the Trial Court. The Applicant/Defendant No.11 has accordingly filed the present Civil Revision Application challenging the order dated 24 July 2017 and for restraining the Trial Court from proceeding further with the trial of the suit.

5) When the Revision Application came up before this Court on 5 February 2026, the learned counsel for the Applicant informed the Court that most of the Plaintiffs had settled the disputes amicably. The learned counsel for the original Plaintiffs/Respondent Nos.1 to 91 has however stated before me that he does not have any instructions from his clients about the latest position, which is the reason why this Court is compelled to decide the Revision Application on merits.

6) I have accordingly heard Mr. Ronghe, the learned counsel appearing for Revision Applicant, Mr. Nayak, the learned counsel

appearing for Respondent Nos.1 to 91-original plaintiffs, Mr. More, the learned counsel appearing for Respondent No.92-SRA and Mr. Haldankar, the learned AGP for Respondent-State.

7) I have considered the submissions canvassed by the learned counsel. I have gone through the reasons recorded by the Trial Court in the impugned order. I have also perused the records of the case filed alongwith the Revision Application as well as with the compilation of documents tendered on behalf of the original Plaintiffs.

8) After having considered the submissions canvassed by the learned counsel appearing for the parties, it is seen that plaintiffs are essentially aggrieved by the action of the SRA authorities about the manner in which the Slum Scheme is being implemented. They have sought a declaration that the procedure contemplated in the GR of 2008 is violated by the SRA authorities while preparing primary eligibility list (Annexure-2) dated 16 May 2015. It appears that in that Annexure-2, Plaintiffs were declared ineligible. Plaintiffs are thus essentially aggrieved by declaration of their ineligibility.

9) Slum Act is a complete Code in itself, providing the necessary remedies for persons, who are aggrieved by any actions taken under the Act. To illustrate, the Act provides for remedies for challenging declaration of land as slum area. Similarly, the Act provides for remedies under Section 35 of the Act for an aggrieved person in respect of any notice, order or direction issued or given by the Competent Authority.

Since the Act is a complete code in itself, Section 42 provides for bar of jurisdiction of Civil Courts in respect of any matter in which the Appellate Authority, Competent Authority, Grievance Redressal Committee, Apex Grievance Redressal Committee or Tribunal can determine any matter. Section 42 of the Slum Act provides thus:

42. Bar of jurisdiction.—

Save as otherwise expressly provided in this Act, no civil court shall have jurisdiction in respect of any matter which the Appellate Authority, Competent Authority, Grievance Redressal Committee and Apex Grievance Redressal Committee or Tribunal is empowered by or under this Act, to determine; and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

10) Thus, there is a specific statutory bar of jurisdiction of Civil Courts and other authorities from taking up matters or granting injunctions over actions assigned to the designated slum authorities like the Competent Authority, Appellate Authority, Grievance Redressal Committee or the Tribunal.

11) Meaningful reading of the plaint filed in the Suit of the Plaintiffs would indicate that Plaintiffs are essentially aggrieved by declaration of Bhoite Chawl as slum. In respect of this grievance, there is a specific remedy of filing Appeal before the Tribunal constituted under the Slum Act. Section 4(3) of the Slum Act provides thus:

4. Declaration of slum areas.—

...

(3) Any person aggrieved by a declaration made under sub-section (1) may, within thirty days after the date of such declaration in the Official Gazette,

appeal to the Tribunal. No such appeal filed after the expiry of thirty days as aforesaid shall be entertained.

Thus there is a remedy of challenging the Slum Notification by filing an appeal to the Tribunal under Section 4(3) of the Slum Act.

12) Plaintiffs are also aggrieved by the manner in which the survey is conducted and eligibility is determined. They are aggrieved by the declaration of their ineligibility. For this grievance also, there are specific remedies under Section 35 of the Slum Act. Section 35(1) and (1A) of the Slum Act provides thus:

35. Appeals.—

(1) Except as otherwise expressly provided in this Act, any person aggrieved by any notice, order or direction issued or given by the Competent Authority, may appeal to the Appellate Authority, who shall be a person holding a post not below the rank of Additional Collector, in respect of the areas of Municipal Corporations and “A” Class Municipal Councils, and not below the rank of Deputy Collector, in respect of areas of other Municipal Councils, to be notified by the State Government, within a period of thirty days from the date of issue of such notice, order or direction.;

(1A) Any person,—

(a) aggrieved by any notice, order or direction issued or given by the Appellate Authority under sub-section (1), may file an appeal within a period of thirty days from the date of receipt of such notice, order or direction, before the Grievance Redressal Committee;

(b) aggrieved by any notice, direction, circular, decision, order, permission or approval issued or given by the Chief Executive Officer of Slum Rehabilitation Authority or any Officer to whom the powers are delegated by the Chief Executive Officer, may file an appeal within thirty days of receipt of such notice, direction, circular, decision, order, permission or approval, before the Apex Grievance Redressal Committee.

13) Thus, there is a remedy of filing appeal against every decision taken by the Competent Authority under Section 35 of the Slum Act. Instead of exercising the remedies available under the Act, Plaintiffs have approached the Civil Court by filing Special Civil Suit No. 1938 of 2016, which appears to be in the teeth of provisions of Section 42 of the Slum Act.

14) The Trial Court appears to be impressed by the submissions made on behalf of the Plaintiffs that they did not challenge any notice, order or direction issued by Defendant Nos.1 to 9 and that therefore, the bar under Section 42 of the Slum Act does not apply in respect of the suit. In my view, deliberate avoidance to challenge Annexure-2 or Slum Notification is nothing but a clever drafting in the present case. In prayer clauses B and C, Plaintiffs have sought a declaration that Defendant Nos. 1 to 9 and 11 cannot dispossess them without following due process of law and that the SRA Scheme cannot not be implemented as they are residing in concrete houses, meaning thereby that they are essentially aggrieved by declaration of land as slum area. However, Notification dated 23 August 1979 declaring the land as slum area is deliberately not challenged. Similarly, Plaintiffs have referred to Annexure-2 dated 16 May 2015 in prayer clause A of the plaint but have deliberately avoided to challenge it. Thus, non-challenge to the slum Notification at Annexure-2 is a deliberate act and clever drafting on the part of the Plaintiffs. The same is to avoid bar of jurisdiction under Section 42 of the Slum Act. Otherwise, the essence of the Suit is to question the validity of implementation of slum scheme on the land which Plaintiffs believe is

not a slum area and also to question the correctness of decision on eligibility of Plaintiffs through Annexure-2. In my view therefore, the bar of jurisdiction under Section 42 of the Slum Act is clearly attracted in the present case.

15) Mr. Nayak has relied on judgment of this Court in **Qari Mohammed Zakir Hussain and Ors. vs. Municipal Corporation of Greater Mumbai and Ors.**¹ in support of his contention that when provisions of the Slum Act are not complied with or where the statutory Tribunal has acted with fundamental judicial procedure, bar of jurisdiction of Civil Court does not apply. In my view, the ratio of the judgment in **Qari Mohammed Zakir Hussain** (supra) has no application to the facts of the present case. In **Qari Mohammed Zakir Hussain**, there were specific allegations of fraud and collusion in the implementation of the slum scheme. Therefore, the judgment rendered in the peculiar facts of that case has no application to the facts of the present case where this Court is unable to notice any allegation of fraud or collusion being raised in the plaint.

16) Mr. Nayak has relied on judgment of this Court in **L&T Asian Realty Project LLP and Anr. vs. State of Maharashtra and Ors.**² in support of his contention that this Court has rejected similar applications filed seeking rejection of plaint under Order 7 Rule 11 of the Code. However, perusal of the findings recorded by this Court in para-33 of the judgment would clearly indicate that the bar under Section 42 of the Slum

1 2002 (2) Bom.C.R. 98

2 IA (L) 35100 of 2024 decided on 8 June 2026

Act was held to be inapplicable on account of allegations of fraud, malice, conspiracy and collusion raised in the plaint. In the present case, however, there is total absence of allegations of fraud in the plaint. In fact, this Court repeatedly called upon Mr. Nayak to point out any pleading alleging fraud in the plaint. However, after making several unsuccessful attempts, Mr. Nayak has finally conceded the position that the word 'fraud' does not appear in the plaint. Therefore the judgment in ***L&T Asian Realty Project LLP*** (supra) rendered in the peculiar facts of that case has no application here. Also, it appears that the judgment of this Court in ***L&T Asian Realty Project LLP*** (supra) is under challenge before the Apex Court and there is some interim protection granted vide order dated 14 August 2026.

17) This Court has also undertaken the exercise of reading the plaint as a whole. Except a stray averment in para-18 of the plaint in alleging that Defendant Nos.6 to 9 are hand in gloves with Defendant No.11 and landowners, there is absolutely no allegation of fraud or conspiracy in the entire plaint. Holistic and meaningful reading of the plaint would indicate that Petitioners are essentially aggrieved by declaration of their non-eligibility while preparing Annexure-2 and by declaration of the land as slum area. For both the grievances, the complete code in the form of Slum Act provides for remedies and bars jurisdiction of a Civil Court.

18) The Trial Court has grossly erred in recording a finding that Plaintiffs have not challenged any notice, order or direction issued by the

SRA. Annexure-2 is an order prepared by the SRA. It is a 'decision' on eligibility of a person claiming to be a slum dweller for securing benefits of rehabilitation. Annexure-2 is prepared after examination of documents of eligibility and it contains a decision as to whether a claimant found in the survey is eligible or not. Annexure-2 is an important document which determines eligibility of slum dwellers with regard to their right of rehabilitation. A person aggrieved by non-inclusion of name in Annexure-2 or by declaration of his/her ineligibility can file an appeal under Section 35 of the Slum Act before the Grievance Redressal Committee. Thus, what is challenged in the Suit is essentially non-declaration of eligibility as per Annexure-2 and therefore it cannot be contended that the Plaintiffs have not challenged any notice, order or direction issued by the SRA authorities. In my view therefore, the bar under Section 42 of the Slum Act is clearly attracted in the facts and circumstances of the present case. The Trial Court has grossly erred in rejecting the Application under Order 7 Rule 11 filed by the Applicant/Defendant No.11.

19) Though events subsequent to filing of the suit are irrelevant for deciding an application filed under Order 7 Rule 11 of the Code, I am considering the subsequent events only for the purpose of examining whether anything really survives in the suit at this juncture. As observed above, this Court had recorded a statement of the Applicant on 5 February 2026 that most of the Plaintiffs have settled the dispute amicably. Therefore during the course of hearing of the Revision Application, this Court enquired with Mr. More, the learned counsel

appearing for the SRA about the current situation. He has invited my attention to the letter dated 10 March 2026 addressed by SRA to him about the latest position in respect of all the structures on the plot. The letter indicates that after filing of the Suit, out of 91 Plaintiffs, 66 of them are declared eligible in the final eligibility list. Also, 33 plaintiffs have executed consent agreements with the developer on 21 June 2021. 16 Plaintiffs, who are declared ineligible, have already exercised the statutory remedy of filing Appeals under the Slum Act which are pending before the concerned authorities. The letter states that final approval to the scheme has been issued on 25 August 2023. Thus, out of the 91 plaintiffs, 66 plaintiffs are already declared eligible and 16 plaintiffs have challenged their ineligibility by filing Appeals. This Court therefore enquired with Mr. Nayak as to whether Plaintiffs are really interested in prosecuting the Suit. Mr. Nayak however submits that he is unable to secure any instructions from his clients. Possibly the Plaintiffs have lost interest in prosecuting the suit and hence are not contacting Mr. Nayak. Be that as it may. The present Revision Application is being decided on the basis of averments in the plaint without taking into consideration the subsequent developments. The subsequent development of 82 out of 91 plaintiffs either getting satisfied with eligibility or filing appeals is noted only in the view of a statement made on behalf of the Applicant that there is amicable resolution of the dispute. Rejection of a plaint also does not render the balance 9 Plaintiffs remediless. If they are declared ineligible, they can always prefer appeals for securing their eligibility.

20) I am therefore of the view that the impugned order passed by the Trial Court is clearly unsustainable and liable to be set aside. The Revision Application accordingly succeeds, and I proceed to pass the following order :

- (i) Order dated 24 July 2017 passed by the Trial Court on Application at Exh.58 filed in Regular Civil Suit No. 1938 of 2016 is set aside.
- (ii) Application at Exh.58 is allowed and the plaint in Regular Civil Suit No. 1938 of 2016 is rejected under Order 7 Rule 11 of the Code.
- (iii) Consequently, Regular Civil Suit No. 1938 of 2016 stands dismissed.

21) Civil Revision Application is allowed in the above terms. There shall be no order as to costs.

[SANDEEP V. MARNE, J.]