



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2892 OF 2025

Arvind Pravinkumar Mehta .. Petitioner

Versus

The Apex Grievance Redressal Committee .. Respondent

Mr.Vishal Kanade and Mr.Janay Jain a/w Mr. Ashwin S. Tripathi, Advocate for the Petitioner

Ms. Aparna D. Vhatkar, Advocate for the Respondent No. 1-AGRC

Ms.Ravleen Sabharwal a/w Ms. Aarushi Yadav and Mr. Prakhar Tandon, Advocate for the Resondent Nos. 2 & 3-SRA

Mr.Shashikant Surana a/w Mr. Madhur Surana, Advocate for the Respondent No. 4

CORAM: FIRDOSH P. POONIWALLA, J.
RESERVED ON: DECEMBER 17, 2025
PRONOUNCED ON: JANUARY 19, 2026

JUDGEMENT:-

1. Rule. Rule made returnable forthwith and heard finally by consent of parties.

2. This Writ Petition is filed seeking the following final reliefs:

(a) That this Hon'ble Court be pleased to issue a Writ of Certiorari or any other Writ / Order / Direction in the nature of Writ of Certiorari to quash, set aside the impugned order dated 06.05.2025 passed by respondent No.1 (Exhibit-C);

(b) That this Hon'ble Court be pleased to issue a Writ of Certiorari or any other Writ / Order / Direction in the nature of Writ of Certiorari to quash, set aside the Impugned order dated 31.12.2024/ 01.01.2025, passed by the Respondent No.2 (Exhibit-A) and the Petitioner Petition may be allowed in the interest of justice;

(c) That this Hon'ble Court be pleased to restrain respondent No.3 from permitting any change/modification in the approved plan dated 19.05.2023 to the extent of shifting of permanent alternate accommodation of the petitioner from Shop No.3 of the subsisting approved plan to any other shop or portion of the rehabilitation building.”

3. Mr.Kanade, the learned counsel appearing on behalf of the Petitioner, made submissions in support of the Petition.

4. Mr.Kanade submitted as follows:

a. As per Clause 5 of the Agreement dated 27th January 2016 entered into between the erstwhile developer, the Respondent No.5 Society and the Petitioner, it was agreed that the Petitioner would be provided permanent alternate accommodation of commercial premises facing Khotkuwa Road.

b. Respondent No.4 was appointed as a Developer on 3rd February 2023.

c. In May 2023, Respondent No.4 got approved plans which showed that the commercial premises in the Rehabilitation Building were facing the Khotkuwa Road.

d. The Petitioner did not vacate his temporary structure as he was not being provided permanent alternate accommodation facing Khotkuwa Road as per the Agreement dated 27th January 2016 and the plans approved in May 2023.

e. Respondent No.4 submitted proposals dated 24th July 2024 and 7th October 2024 for taking action against the Petitioner under Sections 33 and 38 of the *Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971* (hereinafter referred to as the “Maharashtra Slum Act”).

f. Respondent No.2 issued a Notice dated 12th November 2024 calling upon the Petitioner to show cause as to why he

should not be evicted from the temporary structure occupied by him.

g. Before Respondent No.2, the Petitioner argued that the Rehabilitation building was 99% complete and that the Petitioner was ready to vacate his existing slum within 3 days. However, as per the approved layout dated 19th May 2023, Respondent No.4 should allocate to the Petitioner commercial premises in the Rehabilitation building. However, Respondent Nos.4 and 5 were delaying the allotment of commercial premises shown in the approved layout i.e. commercial premises facing the Khotkuwa Road.

h. Before Respondent No.2, Respondent No.4 submitted that the Petitioner was not cooperating in the Rehabilitation Scheme. Despite being informed by way of letters to vacate his temporary structure, the Petitioner had remained un-cooperative. Due to the temporary structure of the Petitioner and some other persons, the CFO NOC was pending. Respondent No.4 further submitted that the commercial premises in the Rehabilitation

building would be allocated to the Petitioner within five months of receiving the Occupation Certificate.

i. By an Order dated 1st January 2025, Respondent No.2 held that the Petitioner and certain other persons were not cooperating in vacating their temporary structures and were causing obstruction to the Scheme. The Rehabilitation building was ready but certain structures located at its entrance (which included the structure of the Petitioner) were preventing the issuance of the Fire Department NOC and the OC. In these circumstances, immediate eviction of these structures [which included the structure of the Petitioner] was essential. Respondent No.2 also noted that due to the non-cooperation of the Petitioner and the others, the Slum Rehabilitation Scheme was being held up, depriving the majority of the slum developers of rehabilitation. Consequently, the eviction of the Petitioner and others under Sections 33 and 38 of the Maharashtra Slum Act was mandatory. For these reasons, Respondent No.2 passed the following order:

1. *The slum dwellers residing in Hut Nos. 245, 246, 247, 260, 261, 262, 263, and 264 within the slum redevelopment project of Jai Hanuman SRA Co-Operative Housing Society (Ltd.) on Survey No. 396 and other properties in Maije*

Malad, Taluka Borivali, are directed to vacate their huts and hand over the vacant land beneath the huts to the developer for development work within 30 days from the date of this order.

2. The construction of the rehabilitation building is complete, but the Occupancy Certificate (OC) is pending. The developer has stated that obtaining the OC will take approximately three months. However, the developer has already deposited the rent amount for five months with the Registrar, Co-Operative Societies, Slum Rehabilitation Authority, Greater Mumbai. The respondent slum dwellers are required to visit the Registrar, Co- Operative Societies, Slum Rehabilitation Authority, Greater Mumbai, to claim this rent amount.

3. If the respondent slum dwellers fail to vacate their huts and hand over the vacant land beneath the huts to the developer for development work within the stipulated 30-day period, their huts will be evicted under Sections 33 and 38 of the Maharashtra Slum Areas (Improvement, Clearance, and Redevelopment) Act, 1971. The costs incurred for such eviction will be recovered from them as land revenue arrears.

4. This order should be communicated to all concerned parties.

j. On 9th January 2025, the Petitioner filed an Appeal before the Apex Grievance Redressal Committee (AGRC) - Respondent No.1. By an Order dated 6th May 2025, Respondent No.1 – AGRC held that Respondent No.2 had already completed the rehabilitation building consisting of 221 residential tenements and 60 commercial tenements and, in total, Respondent No.2 had made provision for 292 tenements. Respondent No.1 further recorded that a NOC was required from the CFO, Fire Brigade, for the purpose of issuing the Occupation Certificate

and once the Occupation Certificate was issued by the SRA, Respondent Nos.3 and 4 would be able to allot rehabilitation tenements to all eligible slum dwellers. The 7 structures occupied by the Petitioner and others were on the open space / internal road as well as in front of the Rehabilitation Building no.1. Unless the subject structures occupied by these persons were removed, the NOC could not be obtained from the CFO, Fire Brigade, and in the absence of the NOC, Occupation Certificate cannot be granted to the Rehabilitation Building. Respondent No.1 further held that because of the said structures inconvenience was being caused to a large number of slum dwellers, who were waiting for their rehabilitation tenements. Respondent No. 1 further held that the Order dated 1st January 2025 passed by Respondent No.2 did not suffer from any perversity, infirmity or illegality and, therefore, did not require any interference from Respondent No.1.

k. By the said Order dated 6th May 2025, Respondent No.1 passed the following orders:

(a) *The impugned order dated 01.01.2025 passed by Respondent No.1 under section 33 & 38 of Slum Act, is hereby upheld.*

(b) *Appeal No. 10 of 2025 filed by Appellant Arvind Pravinkumar Mehta, Appeal No. 11 of 2025 filed by Appellant Rajkumar Pravinkumar Mehta and Appeal No. 12 of 2025 filed by Appellant Pravinkumar Genmal Mehta stand dismissed.*

(c) *The Impugned order dated 01.01.2025 is stayed for a week for enabling the Appellants to approach the Hon'ble High Court.*

l. In this factual scenario, Mr.Kanade submitted that, as per the Agreement dated 27th January 2016, the Petitioner was to be provided permanent alternate accommodation facing the Khotkuwa Road and the Petitioner was ready to vacate the temporary structure occupied by him if he was allotted permanent alternate accommodation facing the Khotkuwa Road.

m. Mr.Kanade submitted that this aspect had not even been considered by Respondent Nos.1 and 2 and, therefore, the Order dated 1st January 2025 passed by Respondent No.2 and the Order dated 6th May 2025 passed by Respondent No.1 - AGRC were required to be quashed.

n. In support of his submissions, Mr.Kanade relied upon the decision of this Court in *Dhanraj Tejmal Lukad vs. The Apex*

Grievance Redressal Committee and Ors. (Writ Petition (L) No.14111 of 2023 with Writ Petition (L) No.14107 of 2023).

5. On the other hand, Mr.Surana, the learned counsel appearing on behalf of Respondent No.4, opposed the granting of any reliefs in the Writ Petition.

6. Mr.Surana submitted as follows:

a. That the LOI in respect of this project was first issued on 24th April 2015 and, at that time, there were only four eligible commercial structures, which did not include the structure of the Petitioner. On 24th September 2015, the plans for the rehabilitation building were approved with four commercial structures. These four commercial structures were for other occupants and not for the Petitioner.

b. Between 27th February 2018 and 27th June 2018, 7 commercial occupants were held eligible.

c. On 5th / 6th February 2019, the Petitioner was held eligible for commercial premises.

d. From 15th October 2019 to 15th May 2023, totally 24 commercial occupants were held eligible, who were to be accommodated on the ground floor and 1st floor of the Rehabilitation Building.

e. On 28th April 2023, SRA issued LOI and directed Respondent No.4 to construct 18 commercial premises and 41 other commercial premises as provisional PAP.

f. Between 17th October 2023 and 11th July 2024, 18 more commercial premises were held eligible, totaling to 42 eligible, commercial premises.

g. On 17th October 2025, Respondent No.4 made an Application for an Occupation Certificate. However, SRA is not issuing the OC because the Petitioner and others are not vacating the temporary transit structures occupied by them.

h. For these reasons, the Petitioner had to be evicted from the temporary structure occupied by him. The Petitioner cannot refuse to vacate the temporary structure occupied by him on the ground that he must be given a permanent alternate accommodation in the rehabilitation building facing the Khotkuwa Road.

i. In support of his submissions, Mr.Surana relied on the following judgments:

- i) *Anil Kesrimal Jain vs. The Apex Grievance Redressal Committee and 4 Ors. (Writ Petition (L) No.405 of 2020).*
- ii. *Ahmad Dawood Surve & Others vs. The Maharashtra Housing and Area Development Authority & Ors. MHADA [Writ Petition (L) No. 8288 of 2022 with Writ Petition No.9845 of 2022].*
- iii. *Sayunkta Sangarsh Samiti vs.State of Maharashtra and Others 2023 SCC Online SC 1684.*

j. Further, the scope of proceedings under Sections 33 and 38 of the Maharashtra Slum Act is limited and, therefore, the Orders dated 1st January 2025 and 6th May 2025 correctly order eviction of the Petitioner and others.

k. In support of the submission that the scope of proceedings under Sections 33 and 38 is limited, Mr.Surana relied upon the following judgments:

- i. *Andrade Motors vs. The Additional Collector (Eng./Rem), & Competent Authority & Ors. (Writ Petition No.1708 of 2009).*
- ii. *Mansoor Ali Farida Irshad Ali and Others vs. Tahsildar-I, Special Cell and Others 2025 SCC OnLine SC 445.*
- iii. *Jimmy Talakchand Savla & Anr. vs. Apex Grievance Redressal Committee (AGRC) & Ors. (Writ Petition No.6836 of 2025)*
- iv. *Ritesh Trikamdas Patel and others vs. Apex Grievance Redressal Committee and others (Writ Petition No.7630 of 2025).*
- v. *Sakharam Savlaram Choudhari and others vs. Apex Grievance Redressal Committee and others (Writ Petition (L) No.31529 of 2025).*

7. The learned counsel appearing on behalf of Respondent No.3 submitted that, since the Petitioner and other persons were blocking the entire rehabilitation scheme, and thereby preventing the other eligible persons from occupying their rehabilitation tenements, they should be directed to vacate their structures. Further, the learned counsel referred to the judgement in *Dhanraj Tejmal Lukad (Supra)* and submitted that the same was distinguishable on facts as, in that case, unlike the present case, the commercial structures that the Court was dealing with were the only commercial structures and there were no other commercial structures.

ANALYSIS AND FINDINGS:-

8 I have heard the learned Counsel for the parties and perused the documents on record.

9 The question that arises for the consideration of the Court is whether the Petitioner can resist eviction under Sections 33/38 of the Maharashtra Slum Act on the ground that, according to him, he is entitled to be allocated commercial premises facing Khotkuwa Road in the Rehabilitation Building.

10 To answer this question, we must first consider the scope of proceedings under Sections 33/38 of the Maharashtra Slum Act. Sections 33 and 38 of the Maharashtra Slum Act read as under:-

“33. Power of eviction to be exercised by Chief Executive Officer.- Where the Competent Authority is satisfied either upon a representation from the owner of a building or upon other information in its possession that the occupants of the building have not vacated it in pursuance of any order or direction issued or given by the Authority, the Authority shall, by order, direct the eviction of the occupants from the building in such manner and within such time as may be specified in the order, and for the purpose of such eviction, may use or caused to be used such force as may be necessary:

Provided that, before making any order under this section, the Competent Authority shall give a reasonable opportunity to the occupants of the building to show cause why they should not be evicted therefrom.

“38. Order of demolition of buildings in certain cases.-

(1)Where the erection of any building has been commenced, or is being carried out, or has been completed, in contravention of the provisions of section 8 or of any restriction or condition imposed under sub-section (10) of section 12, or a plan for the redevelopment of any clearance area or in contravention of any notice, order or direction issued or given under this Act, the Competent Authority may, in addition to any other remedy that may be resorted to under this Act or under any other law, make an order directing that such erection shall be demolished by the owner thereof within such time not exceeding two months as may be specified in the order, and on the failure of the owner to comply with the order, the building so erected shall be liable to forfeiture or to summary demolition by an order of the Competent Authority and the expenses of such demolition shall be recoverable from the owners as arrears of land revenue :

Provided that, no such order shall be made unless the owner has been given a reasonable opportunity of being heard.

(2)Forfeiture under this section shall be adjudged by the Competent Authority, and any property so forfeited shall be disposed of as the Competent Authority may direct; and the cost of removal of the property under this section shall be recoverable as an arrears of land revenue.

(3)For the purpose of causing any building to be demolished under sub-section (1) the Competent Authority may use or cause to be used such force as may be necessary.”

11 This Court, in its judgment in ***Andrade Motors (Supra)***, has laid down the scope of proceedings under Sections 33/38 of the Maharashtra Slums Act. Paragraphs 11 to 15 of the said Judgement are relevant and are set out herein below:-

“11:- The issue of the Petitioner’s entitlement pursuance to Circular No. 70 dated 30th December, 2004 and issue of CRZ, affecting the scheme are kept open for appropriate challenge by appropriate proceedings. In my view, the Authority under

Section 33 of the Act, has very limited power and jurisdiction. It only requires to consider if the person though directed not shifting or vacating the plot in question and as it affecting the progress of the scheme/ project, after hearing such person, to pass order of eviction. This Authority has no jurisdiction and authority to test the validity of SRA Scheme and Letter of Intent already issued on such issues.

12. The Scheme under the Act are with intention to redevelopment of Slums and Rehabilitation of the slum dwellers. The “Competent Authority” and the “Slum Rehabilitation Authority – SRA” or “High Power Committee” are distinct Authorities with “Special power and jurisdiction”.

13. The Authority under Section 33 of the Act, is not empowered to interfere with the final sanctioned scheme. Therefore, no question to deal with the various challenges raised about the CRZ and the entitlement of extra area/ structures, merely because the Petitioner has raised such issues and resisted by the other side, that itself noway enlarge the scope and purpose of Section 33 of the Act and related Rules. Even otherwise, the Petitioner’s remedy is elsewhere.

14. In view of this, and in the public interest for development of proposed public utility, I see there is no reason to halt the project at the instance of one Petitioner, in view of above. I am declined to interfere with the action of eviction as initiated for removal of the structure of the Petitioner. The impugned order/action of eviction is well within the frame work of law and the record. There is no perversity.

15. Resultantly, the Writ Petition is dismissed by keeping all points open, with regard to the circular No. 70 dated 30th December, 2004 and issue of CRZ, if any. No order as to costs.”

13 Further, this Court in ***Ritesh Patel (Supra)*** has followed the judgement in ***Andrade Motors (Supra)*** and has held as under:-

“36. It is a settled position of law that while considering such a challenge to orders passed under Sections 33 and 38 of the Slum Areas Act, the scope of interference is extremely

narrow. This has been laid down by this Court in the case of Andrade Motors Vs. Additional Collector (Eng./Rem) and Competent Authority and others, 2009 SCC OnLine Bom.358 and reiterated in a number of judgements and orders passed thereafter. In fact, being aware about the narrow scope in such matters, the contentions raised on behalf of the petitioners were limited to the aforesaid aspect of jurisdiction of the Tahsildar to entertain the proceedings under Sections 33 and 38 of the Slum Areas Act.”

14 The aforesaid judgments of this Court clearly show that the scope of proceedings under Sections 33/38 of the Maharashtra Slum Act is limited. The authority under Sections 33/38 of the Maharashtra Slum Act has very limited power and jurisdiction. It is only required to consider whether persons, though directed to do so, have not shifted or vacated the structures in question, and whether the same is affecting the progress of the Scheme/ Project. Thereafter, after hearing such persons, the authority has to decide whether to pass an order of eviction or not. The authority has no jurisdiction to decide the validity of the SRA Scheme and the Letter of Intent already issued. The authority is not empowered to interfere with the final sanctioned scheme. Since the scope of the proceedings under Sections 33/38 of the Maharashtra Slum Act is limited, in the proceedings taken against the Petitioner under Sections 33/38 of the Maharashtra Slum Act, it is only to be seen whether the Petitioner is liable to be evicted from the temporary structure occupied by him and the Petitioner cannot resist such eviction on the ground that he is entitled to be allotted commercial premises facing the Khotkuwa Road in the Rehabilitation Building and block the whole Scheme.

15 The aforesaid also finds support from the decision of this Court in ***Anil Jain (Supra)***. Paragraph 3 (part) and paragraph 4 (iv) of the said decision read as under:-

“3. So far as location and nature of accommodation to be provided to the Petitioner is concerned, it is also not in dispute that the Petitioner is being allotted commercial premises of comparable area and on the ground floor of the rehab building. The Petitioner’s grievance is that he is not being allotted a road facing accommodation. It is submitted by learned Counsel for Respondent No.5 developer that all commercial occupants cannot be allotted road facing accommodation, since all rehab buildings cannot be road facing. It is submitted that all commercial occupants are being accommodated in rehab building Nos. 5 and 7, which have an internal road abetting them. In these facts, merely because the Petitioner is not getting permanent alternative accommodation at a location desired by him, he cannot obstruct delivery of possession of his existing accommodation under an order passed under Sections 33/38 of the Act or oppose demolition of the existing structure, which is crucial to implementation of the subject SR project. No fault can be found, accordingly, with the order of AGRC.

4. Accordingly, the following order is passed :-

(i)
 (ii)
 (iii)

(iv) *In case the Petitioner has any grievance about the permanent alternative accommodation, he is at liberty to seek such remedy as may be permissible to him in law; he cannot, however, stall the project or obstruct the same. If any such application is made, it will be decided on its own merits without being influenced by the present order.”*

16 As seen from the decision in ***Anil Jain (Supra)***, in that case, it was not in dispute that the Petitioner therein was being allotted commercial premises of comparable area and on the ground floor of the Rehabilitation Building. The Petitioner’s grievance was that he was not being allotted road facing

accommodation. In this factual scenario, this Court held that, merely because the Petitioner is not getting the permanent alternate accommodation at a location desired by him, he cannot obstruct delivery of possession of his existing accommodation under an Order passed under Sections 33/38 of the Maharashtra Slum Act or oppose demolition of the existing structure, which is crucial to the implementation of the Slum Rehabilitation Project. Accordingly, this Court did not find fault with the order of the AGRC.

17 Further, in *Anil Jain (Supra)*, this Court held that, in case the Petitioner has any grievance about the permanent alternate accommodation, he is at liberty to seek such remedy as may be permissible to him in law, but he cannot stall the project or obstruct the same.

18 Based on this decision, even though Agreement dated 27th January, 2016 entered into by the Petitioner with the erstwhile builder and the Society (Respondent No.5), states that the Petitioner will be allocated commercial premises facing Khotkuwa Road in the rehabilitation building, the same cannot be a ground to resist eviction. As held by this Court in *Anil Jain (Supra)*, in case the Petitioner has any grievance about the permanent alternate accommodation being provided to him, he is at liberty to seek such remedy as may be permissible to him in law but he cannot stall the project or obstruct the same.

19 This is all the more so as the Fire Department has not issued an NOC on account of the existence of the temporary structures of the Petitioner and others,

and due to the same, Respondent No.3 is not issuing the Occupation Certificate in respect of the Rehabilitation Building.

20 In my view, persons like the Petitioner and others, cannot be permitted to block the entire Rehabilitation Scheme, and, therefore, the Petitioner is liable to be evicted from the temporary structure occupied by him.

21 For all these reasons, I find no reason to interfere with the Order dated 1st January, 2025 passed by Respondent No.2 and the Order dated 6th May, 2025 passed by AGRC (Respondent No.1)

22 As far as the decision in *Dhanraj Tejmal Lukad (Supra)* cited by Mr. Kanade is concerned, the same clearly shows that the Petitioners therein agreed to vacate their structures and, thereafter, the Court considered the issue regarding their permanent alternate accommodation. Similarly, in the present case also, the Petitioner will first have to vacate his structure as directed by the Orders dated 1st January, 2025 and 6th May, 2025 passed under Sections 33/38 of the Maharashtra Slums Act. The question, regarding whether the Petitioner should be allocated a permanent alternate accommodation facing Khotkuwa Road, cannot be decided in proceedings under Sections 33/38 of the Maharashtra Slum Act. Thereafter, after vacating the structure occupied by him, the Petitioner can agitate the issue regarding permanent alternate accommodation. I am not preventing the Petitioner from agitating the said issue but the Petitioner has to first vacate the temporary structure and cannot make the granting of a permanent alternate accommodation

facing the Khotkuwa Road as a condition precedent for vacating the said structure.

In *Dhanraj Tejmal Lukad (Supra)* this Court was not required to go into the scope of Sections 33/38 of the Maharashtra Slum Act, as the Petitioners before it had agreed to vacate their structures. In these circumstances, the decision in the *Dhanraj Tejmal Lukad (Supra)* does not carry the case of the Petitioner any more.

23 For the aforesaid reasons, I pass the following Orders:-

- (i) The Writ Petition is dismissed. The Rule is discharged;
- (ii) As far as the grievance of the Petitioner about the allocation of the permanent alternate accommodation to be allotted to him in the Rehabilitation Building is concerned, he is at liberty to seek such remedy as may be permissible to him in law. If any such Application is made, it will be decided on its own merits without being influenced by the present Order;
- (iii) In the facts and circumstances of the case, there will be no order as to costs.

[FIRDOSH P. POONIWALLA, J.]

24 At this stage, the learned Counsel appearing for the Petitioner seeks a stay of the operation of this Order for a period of four weeks. The operation of this Order is stayed for a period of three weeks from today.

[FIRDOSH P. POONIWALLA, J.]