

ITEM NO.12

COURT NO.13

SECTION IX

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 15472/2023

(Arising out of impugned final judgment and order dated 08-06-2023 in AFO No. 391/2023 passed by the High Court Of Judicature At Bombay)

SANTOSH KASHINATH CHAVAN

Petitioner(s)

VERSUS

THE STATE OF MAHARASHTRA & ORS.

Respondent(s)

([IA NO. 232101/2023 IN SLP(C) NO. 15472/23 AND IA NO. 239684/2023 IN SLP(C) NO. 18610-12/2023 ARE LISTED]
IA No. 232101/2023 - VACATING STAY)

WITH
SLP(C) No. 18610-18612/2023 (IX)
(FOR
FOR VACATING STAY ON IA 239684/2023
IA No. 239684/2023 - VACATING STAY)

Date : 03-05-2024 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE C.T. RAVIKUMAR
HON'BLE MR. JUSTICE RAJESH BINDAL

For Petitioner(s) Mr. Awais Ahmedji, Adv.
Mr. Shabnam Shaikh, Adv.
Mr. Jai Vardhan, Adv.
Mr. Brijesh Gupta, Adv.
Mr. Randhir Kumar Ojha, AOR

For Respondent(s) Ms. Yugandhara Pawar Jha, Adv.
Mr. Siddharth Dharmadhikari, Adv.
Mr. Aaditya Aniruddha Pande, AOR
Mr. Bharat Bagla, Adv.
Mr. Sourav Singh, Adv.
Mr. Aditya Krishna, Adv.
Ms. Preet S. Phanse, Adv.
Mr. Preet S. Phanse, Adv.
Mr. Adarsh Dubey, Adv.

Mr. Aniruddha Joshi, Adv.
Mr. Shashibhushan P. Adgaonkar, AOR
Mrs. Pradnya S Adgaonkar, Adv.

Mr. Rana Mukherjee, Sr. Adv.
Ms. Neha Sharma, AOR
Mr. Deeptakirti Verma, Adv.
Ms. Surabhi Guleria, Adv.
Mr. Ish Jain, Adv.

UPON hearing the counsel the Court made the following
O R D E R

An unsuccessful challenge against implementation of certain notices issued under the 'Slum Development Scheme'/'Slum Rehabilitation Scheme' before the High Court of Judicature at Bombay made the petitioners, who are a tenement-holder of Pandurang Niwas to move the captioned Special Leave Petitions.

On 21.07.2023, this Court while issuing notice, ordered status quo, as of that day, with respect to the property in question. The said order is being extended from time to time. In this context, it is to be noted that the core contention raised by the petitioners are that the High Court of Judicature at Bombay granted protection to the other tenement holders of Pandurang Niwas from their tenements being demolished in their challenge against an order declaring slum rehabilitation area of the subject plot, in Writ Petition (L) No.26976 of 2022 and they are similarly situated persons. It is also submitted that issue is thus sub-judice before the High Court.

Now, learned Senior Counsel appearing for the respondent no.4 would submit that in the meanwhile, Writ Petition(L) No.26976 of 2022 was dismissed with costs vide judgment dated 07.11.2023 passed by the High Court of Judicature at Bombay and further that in that

case, in fact the scheme itself was under challenge.

In response to the said submission, the learned counsel appearing for the petitioners would submit that the petitioners filed Special Leave Petition against the judgment in Writ Petition (L) No.26976 of 2022 before this Court in January, 2024 and it is still remaining defective. In this context, it is relevant to state that the petitioners themselves along with some others, earlier, filed Writ Petition No.5371 of 2020 before the High Court of Bombay challenging notice dated 10.11.2022 and withdrew the same on 22.12.2022 with liberty to file appropriate proceedings with respect to the proposal for re-development and eligibility of the suit premises. It is thereafter that the petitioners filed S.C. Suit No.665 of 2023 before the Bombay City Civil Court at Bombay. The prayer for ad-interim relief was rejected in the said suit as per order dated 04.02.2023. It is against the said order dated 04.02.2023 that the petitioners filed Appeal from order No.391 of 2023. The order impugned in the captioned Special Leave Petitions have been passed in the said Appeal viz., Order No.391 of 2023. Evidently, recording the submissions made on behalf of respondent No.4/defendant No.4 developer as recorded in paragraph 6 of the impugned order dated 08.06.2023, the High Court declined to entertain the appeal holding that the order impugned before it was only an ad-interim order awaiting adjudication before the City Civil Court. The captioned SLP was filed against the said order dated 08.06.2023. Virtually, the core contention of the petitioners were founded on the pendency of Writ Petition (L) No.26976 of 2022.

The fact is that we have no hesitation to hold that the petitioners are not taking steps to cure the defects despite passing of the months after the filing of the same, solely because he wanted to take shelter under the interim order passed by this Court.

The said act on the part of the petitioners can wholly be considered only as an abuse of the process of the Court. When the main petition carrying the challenge against the scheme itself was dismissed with costs by the High Court even after filing the petition to challenge the same and keeping it as defective and enjoying the interim order granted mainly because of the pendency of the said writ petition cannot be appreciated. At any rate, the captioned SLP Filed against an order declaring to grant an ad-interim order cannot be retained on file, in the above circumstances.

In the said circumstances, without prejudice to the rights of the petitioners to cure the defects and bring up the matter for consideration, this Special Leave Petitions stand dismissed.

Pending application(s), if any, shall stand disposed of.

(VARSHA MENDIRATTA)
COURT MASTER (SH)

(MATHEW ABRAHAM)
COURT MASTER (NSH)