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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12362 OF 2025

1. SACHIN S/O. PURSHOTTAM POOJARI,
Aged about 41 years, Occ.:Service.
2. SRIVIDYA D/O. PURSHOTTAM POOJARI,
Aged about 37 years, Occ.:Housewife,

Both are residing in Room No. 3,
Dwarkaprasad Dube Chawl,
Gamdevi Road, Bhandup (W),
Mumbai-400 078.

...PETITIONERS

Versus

1. MISS. FLYMI SADANANDAN,
Aged 40 years, Occ.:Household.
2. SANJEEV SADANANDAN,
Aged 36 years, Occ.:Business,

Both adults, Indian Inhabitants,
residing at Jaishree Niketan, 1st Floor,
N.E.S. Marg, Bhattipada, Bhandup (W),
Mumbai-400 078.

...RESPONDENTS

Mr. H. P. Pandey, *Advocate for the Petitioners.*

Ms. Minakshi Surve, *Advocate for the Respondents.*

CORAM : ARUN R. PEDNEKER, J.

DATE : 7th SEPTEMBER, 2026.

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ORAL JUDGMENT :

1. Heard Mr. Pandey, learned Advocate appearing for the Petitioners and Ms. Minakshi Surve, learned Advocate appearing for the Respondents.

2. By the present Petition, the Petitioners are challenging the order dated 6th August, 2025 passed by the Appellate Bench of learned Small Causes Court, Mumbai, in Revision Application No. 67 of 2025, whereby the Appellate Bench was pleased to dismiss the application filed by the Judgment-Debtor under Section 47 of the Civil Procedure Code, 1908 and upheld the order dated 27th January, 2025 passed by the learned Small Causes Court in Exhibit-20.

3. The facts giving rise to the present Writ Petition, in brief, are that R.A.E. Suit No. 574 of 2007 was instituted by the Respondents against the original tenants and obtained a decree dated 24th August, 2015 in their favour. The original Defendant preferred an Appeal No. 475 of 2015 against the decree of eviction, which came to be dismissed.

4. Upon dismissal of the Appeal, the Respondents/Plaintiffs instituted execution proceedings bearing Execution Application No. 331 of 2016, before the learned Small Causes Court. By an order dated 26th August 2024, the Executing Court issued a Warrant of Possession. In the said execution proceedings, the Petitioners filed an application under Section 47 of the Code of Civil Procedure, 1908 at Exhibit-20, raising an objection as to the executability of decree on the ground that the execution was barred by the provisions of Section 22(1)(b) of the Slum Act as the Plaintiffs had failed to obtain requisite permission from the Competent Authority to execute the decree. The said application came to be dismissed by the learned Trial Court by order dated 27th January, 2025. The said order was challenged before the Appellate Bench of learned Small Causes Court in Revision Application No. 67 of 2025.

5. It is pertinent to note that during the pendency of the said Appeal in execution proceedings, the larger property, including the suit premises situated on C.T.S. Nos. 197 and 197/1 to 10, admeasuring 1543.8 sq.meters, came to be declared as a Slum Area

under the provisions of Section 4(1) of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (“**Slum Act**”) on 18th December, 2018. By order dated 6th August, 2025, the Appellate Bench has dismissed the Revision Application, against which the present Petition is filed.

6. Learned Advocate for the Petitioners submits that since the suit premises was included in the area declared as a Slum Area on 18th December, 2018, permission of the Competent Authority is required to proceed with the eviction application of the Decree Holder, in view of the bar under Section 22(1)(b) of the Slum Act.

7. In support of his submissions, learned Advocate for the Petitioners has relied upon the judgment of this Court in the case of *Gauri Pannalal Prajapati v/s. Harishankar Dudhnath Yadav*¹.

8. *Per contra*, learned Advocate for the Respondents/Decree Holders submits that the execution application was instituted in the year 2016, much prior to the declaration of the suit property as a Slum Area within the provisions of Slum Act. It is, therefore,

¹ Writ Petition No. 2588 of 2019 along with other Writ Petitions decided on 25th July, 2019.

submitted that the requirement of obtaining prior permission of the Competent Authority under Section 22(1)(b) of the Slum Act would not arise in the course of execution of a decree.

9. Admittedly, the suit property is declared as slum on 18th December, 2018 after filing of the execution proceedings in the year 2016. The issue involved in the present Petition is ‘whether the execution can proceed without permission of the Competent Authority under Section 22(1)(b) of the Slum Act?’

10. Section 22(1)(b) of the Slum Act is relevant and is noted below for ready reference :-

“22. Proceedings for eviction of occupiers [or for issue of distress warrant] not to be taken without permission of Competent Authority.— (1) Notwithstanding anything contained in any other law for the time being in force, no person shall except with the previous permission in writing of the Competent Authority,—

(a) institute, after commencement of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (Mah. XXVIII of 1971), any suit or proceeding for obtaining any decree or order for the eviction of an occupier from any building or land [in a slum area or for recovery of any arrears of rent or compensation from any such occupier, or for both; or] [These

words were substituted for the words 'in a slum area; or by Maharashtra 2 of 1987, Section 2(a)(i).]

(b) when any decree or order is obtained in any suit or proceeding instituted before such commencement for the eviction of an occupier from any building or land in such area [or for recovery of any arrears of rent or compensation from such occupier, or for both] execute such decree [or order; or]"

11. In the present case, it is not disputed that the decree was passed in the year 2015 in R.A.E. Suit No. 574 of 2007 and confirmed in the year 2016; execution application is filed in the year 2016; so also the suit property was declared as a Slum Area on 18th December 2018.

12. Reliance is placed on the judgment in the case of ***Gauri Pannalal Prajapati*** (*supra*), by the Petitioners and paragraph no. 10 is quoted below for ready reference :-

“10. I have considered the rival submissions advanced by the learned Counsel appearing for the parties. I have also perused the material on record. I have already extracted paragraph 29 of the order dated 06.03.2018 passed by this Court in various C.R.As. filed by the defendants. The defendants did not carry the matter further. The plaintiff proceeded to file execution

proceedings. Defendants have come with the case that during the pendency of the execution proceedings, the Competent Authority has declared the area admeasuring 494.40 sq.mtrs. out of 2482B (part) as a slum area. A perusal of paragraph 29, extracted hereinabove, shows that the total area of C.T.S. No. 2482 is 3689 sq.mtrs. Earlier, by notification dated 29.05.2008, area admeasuring 2105.10 sq.mtrs. of C.T.S. No. 2482(part) was declared as a slum area. The moot question is whether by virtue of notification dated 06.07.2018 declaring area of 494.40 sq.mtrs. as slum area, the plaintiff is required to obtain permission under Section 22(1)(b) of the Slum Act or not. The question can be answered only upon permitting parties to adduce evidence to substantiate their rival contentions. On one hand, plaintiff contends that suit properties are not covered by the area of 494.40 sq.mtrs. declared as a slum area. On the other, defendants contend that suit properties are covered by the area declared as a slum area.”

13. The judgment relied upon by the Petitioners in the case of ***Gauri Pannalal Prajapati*** (*supra*) arose in a different factual context. In that matter, the issue before the Court, *inter alia*, was whether the portion of land on which the suit premises is situated, had in fact been declared as a Slum Area prior to the filing of execution application. The issue arose as part of the property was declared as

slum in the year 2008 and the remaining property was declared as slum in the year 2018. The execution application was filed in the year 2017. Thus the issue before the Court was ‘whether the suit property was situated in the area declared as slum in the year 2008 or 2018?’. Thus the matter was remanded by the Court for consideration of evidence on that aspect. However, the judgment does not support the submission of the Petitioners.

14. In the present matter, the declaration of the suit property as a Slum Area on 18th December, 2018 is not in dispute. The principal question that arises for consideration is whether, in the circumstances of the present case, the subsequent declaration of the suit property as a Slum Area attracts the requirement of obtaining permission of the Competent Authority under Section 22(1)(b) of the Slum Act for continuing the execution proceedings for execution of an eviction decree.

15. This Court is of the view that the requirement of obtaining permission under Section 22(1)(a) or (b) of the Slum Act, has to be examined with reference to the date on which the proceedings are

instituted. Where the execution itself is instituted before the declaration of the property as a Slum Area, a subsequent declaration of the property as a Slum Area cannot, by itself, render the decree inexecutable without obtaining permission. The subsequent declaration does not retrospectively alter the nature or validity of the execution proceedings already instituted. The requirement of prior permission, therefore, cannot be invoked to defeat or suspend the execution of an eviction decree until the permission is obtained of the Competent Authority, merely on account of a subsequent declaration of suit property as being in a slum area under the Slum Act. Section 22 of the Slum Act uses a word “institute” and the bar under Section 22 of the Act applies for institution of the proceedings without permission of the Competent Authority.

16. Considering the above, no case is made out to interfere with the impugned orders. Hence, the present Petition stands dismissed and disposed of accordingly.

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17. Upon request of the Petitioners, the interim relief granted earlier, is continued to operate for a period of four weeks from the date of uploading of this judgment.
18. List this matter on **5th October, 2026**.

[ARUN R. PEDNEKER, J.]

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