

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****WRIT PETITION NO.740 OF 2012**

Hakikullah Kitabullah Shah

...Petitioner.

versus

Slum Rehabilitation Authority and others

..Respondents.

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Mr. C.N. Tripathi i/b Mr. Raj Khude for the Petitioner.

Mr. Vijay Patil i/b J.G. Reddy for Respondent Nos.1 and 4.

Mr. Ajay Patil for Respondent No.2.

Mr. P.S. Dani, Senior Advocate with Mr. Amot Mhatre for Respondent No.3.

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**CORAM : B.R. GAVAI &
A.S. GADKARI, JJ.****27th March, 2015.****P.C. :**

The Petition challenges the order dated 3rd December, 2011 by which the appeal filed by the present Petitioner terminating his development agreement came to be dismissed.

2. Heard Mr. Tripathi, learned counsel for the Petitioner and the learned counsel appearing for the respective Respondents.

3. Mr. Tripathi, learned counsel submits that though in the earlier round of litigation in Writ Petition No.1653 of 2011 this Court had set aside the order of the appellate authority, the same has been again confirmed by the appellate authority and it is not sustainable in law. The learned counsel further submits that the appellate authority has

dismissed the appeal on two grounds; one that the project site is affected by Monorail project and the other regarding delay. He submits that insofar as the ground regarding Monorail is concerned, from the information obtained by the Petitioner from MMRDA under the Right to Information Act, it is clear that the project is not affected by Monorail. He submits that insofar as the ground regarding delay is concerned, the same is without substance.

4. The learned counsel appearing for the SRA submits that the rehab component is already complete and not only that out of 80% of the persons affected by the project 11 have already shifted to the alternate accommodation provided to them.

5. In view of the observations made in paragraph 5 wherein the appellate authority had estimated an amount of Rs.17,50,000/-, we had suggested Mr. Dani, learned senior counsel as to whether Respondent No.3 developer was willing to pay Rs.20 lacs, to which Mr. Dani readily agreed. Subsequent thereto at the request of the learned counsel for the Petitioner himself the amount was increased to Rs.25 lacs and further thereafter to Rs.27.5 lacs. This all happened in the morning session. The learned counsel appearing for the Petitioner in the morning session therefore sought time till 3.00 O'Clock so as to file an undertaking of the Petitioner that the Petitioner is willing to accept

the amount of Rs.27.5 lacs towards full and final settlement. As such, the matter was kept post lunch session for filing of the undertaking of the Petitioner.

6. However, when the matter is called post lunch recess, the learned counsel appearing for the Petitioners states that the Petitioners are not now willing to the arrangement which was agreed in the first session.

7. Since we do not find any merit, we have no other option but to dismiss the Petition. The Petition is, therefore, dismissed.

(A.S. Gadkari, J.)

(B.R. Gavai, J.)