

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

WRIT PETITION NO. 899 OF 2014

Natarajan Sengodan	}	Petitioner
Versus		
Slum Rehabilitation Authority (SRA)	}	
And Ors.	}	Respondents

Mr. Praveen D. Patel for the Petitioner.

Mr. Vijay D. Patil with Mr. Nikhil Chavan for
Respondent No. 1.

Ms. Imam K.Calcuttawala-AGP for Respondent
Nos. 2 and 6.

Mr. Chirag Balsara with Ms. Asha Nair i/b.
M/s. Diamondwalla and Co. for Respondent
No. 5.

**CORAM :- S. C. DHARMADHIKARI &
G. S. KULKARNI, JJ.**

DATED :- AUGUST 14, 2015

P.C. :-

This Writ Petition under Article 226 of the constitution of India seeks a writ of certiorari or any other writ or direction calling for the records and proceedings pertaining to the letters of intent dated 26th October, 2007 and 7th April, 2011 and on scrutiny and perusal thereof, the Petitioner prays that this Court should declare that the redevelopment work on the plot bearing City Survey Nos. 913 and

1629(part) situated in Lower Parel Division, Pandurang Budhhkar Marg, Worli, Mumbai 400 025 is illegal. This Court should also issue a writ of mandamus or any other appropriate writ or direction to Respondent No. 2 to demark the plot City Survey No. 913 from the other plots covered under the abovestated letters of intent.

2) The few facts based on which these reliefs are claimed are that Respondent No. 1 is Slum Rehabilitation Authority (SRA), whereas the second Respondent is an officer of the State Government and working in City Survey and land Record Department. The third Respondent is Assistant Commissioner (Estate) of the Municipal Corporation of Greater Mumbai and the fourth and fifth Respondents are the Co-operative Housing Society and the Builder and Developer, who have, in pursuance of the above letters of intent, undertaken the implementation of the SRA Scheme.

3) It is common ground that the Petitioner, who is the slum dweller, was residing in a slum structure at Udyog Nagar, Worli, Mumbai. This structure and others came to be declared and titled as “slum” under the Maharashtra Slum (Improvement, Clearance and Redevelopment) Act, 1971. Thereafter, the society of slum dwellers was formed and which engaged the Builder and Developer Respondent No.5. A proposal was presented to the SRA for preparation and

implementation of Slum Rehabilitation Scheme and by clubbing certain non slum plots, more particularly described in para 1 of the Writ Petition. The scheme envisages the steps and measures under Development Control Regulation No. 33(10) of the Development Control Regulations for Greater Mumbai, 1991.

4) After all procedural steps and formalities were completed on 26th October, 2007, a letter of intent was issued and it is further common ground that the same came to be revised on 7th April, 2011.

5) The complaint of the Petitioner is that the statutory authorities have neglected to take care of a reservation of garden and public passage and that is why such letters of intent, enabling construction and development of plots and portions also reserved and carved out for public amenities, are invalid and illegal.

6) The basis aspects that have been raised and brought for our consideration are the public passage and the same being included in the scheme of SRA and secondly a garden which was to be also handed over to the Municipal Corporation. If these are public amenities but the municipal authorities and equally the State Government are neglecting the provision of the same for the members of public, then, that is a cause reasonable enough for this Court to take action. We do not

hesitate to accept this stand of the Petitioner, but what we find is that there is an affidavit filed in reply and dealing with the complaint of the Petitioner. That affidavit of the Assistant Engineer of SRA points out as to how the plot bearing City Survey Nos. 913 and 793 meant for passage and garden have not been overlooked. Rather, what has been done is that taking assistance of Government Resolution dated 5th November, 1979, the Government, through its Department of Revenue and Forest, has accorded its sanction to transfer the plot to Municipal Corporation for the nominal price and on the terms and conditions as more particularly mentioned therein. Therefore, the Collector of Bombay had handed over the plot bearing City Survey No. 913 and charge of the same was taken by the Junior Engineer, G/S Ward on behalf of the Municipal Corporation on 14th May, 1980 under the charge receipt. One of the conditions in the Government Resolution was that the said land shall be used by the Bombay Municipal Corporation for the purpose of passage and laying out a drainage line. However, that plot was encroached by slum dwellers. The slum on the said plot was censused slum. For better implementation and overall redevelopment, this plot was included in the scheme. The eligible slum dwellers and whose names appear in the Annexure II have therefore to be rehabilitated. But, the public passage or the right to pass over the same is not affected. It is then pointed out that with respect to plot No.

1629(part), the SRA applied to this Court for modification of/shifting of the reservation of recreation ground and within the same layout. An order passed in a Writ Petition filed in this Court does not permit any authority and particularly the SRA to approve and sanction redevelopment of the plot of land on which there is a reservation of a garden/recreation ground. Therefore, an application by way of Notice of Motion No. 234 of 2009 was made for modification of interim orders dated 31st July, 2007 and prior order dated 8th January, 2003. On this Notice of Motion, an order was passed on 25th November, 2009 and this Court permitted the relocation of the recreation ground within the same layout. Thereafter, Respondent No. 5 Developer executed an undertaking dated 23rd November, 2009 in this Court assuring and undertaking that he will clear the development plan reservation of recreation ground by providing these amenities and shall handover relocated reservation of recreation ground to the Municipal Corporation of Greater Mumbai. He would develop the said recreation ground by putting boundary wall before commencement certificate is granted. All this would be done before commencement certificate for permissible plot area under such reservation is issued or before granting commencement certificate for last 25% permissible sale component in the entire scheme as may be insisted upon by the SRA. This undertaking has been filed in this Court. Additionally, the statement on

oath in this affidavit is accepted as an undertaking given by both, the SRA and equally the Builder and Developer to this Court. It shall also bind the Municipal Corporation, wherein it will ensure that the ground is handed over. Additionally, it is assured by Mr. Balsara and on taking instructions from the Builder and Developer that Respondent No. 5 will ensure that the public passage is carved out and within the scheme on the subject plot. That part will not be constructed upon and will be kept as a free passage for public.

7) In the light of the above, we are of the view that the Petitioner having raised these issues and complaints, they are sufficiently redressed. By this Court taking care and ensuring that both provisions are at site so also in the light of the undertaking accepted, we do not think that these grievances survive any longer. Therefore, Mr.Patel's arguments need not detain us any further.

8) It is then inquired by this Court as to when the SRA will be completing the project and parties like the Petitioner would be put in possession of the permanent alternate accommodation and prior thereto all necessary agreements and documents would be executed. In this regard, this affidavit affirmed on 30th July, 2015 states that till date Respondent No. 5 has constructed 7 rehabilitation buildings in which 905 slum dwellers have been rehabilitated. They are styled as

permanent alternate accommodation for the eligible slum dwellers. It is stated that the Petitioner is also an eligible slum dweller and he would be put in possession of the permanent alternate accommodation in terms of the scheme.

9) We are aware that the Petitioner has consented to the project and its implementation on the subject plots. We are equally aware that the Petitioner is going to derive benefit of the scheme and obtain facilities and amenities for himself and other persons who would be occupying the structures. When the letter of intent was issued in 2007 and it was revised in 2011, by now, the scheme, at least the part of rehabilitation of slum dwellers and to that extent should have been implemented in its entirety. It is stated that one or two rehabilitation buildings as required to be put up as per scheme. They would be constructed as per the approvals granted. The construction of these buildings will be completed on or before 31st July, 2016. We accept the statement made by Mr. Balsara on instructions from Respondent No. 5 as an undertaking given to this Court. We direct that not only these one or two buildings should be constructed and handed over to the Society but the SRA and the Builder and Developer shall ensure that the Petitioner is put in possession of the tenement styled as permanent alternate accommodation and meant for him. That also be done on or before this date.

10) Once we have taken care of all the grievances and as raised before us, we do not think that the Writ Petition survives any more. It is accordingly disposed of. Needless to clarify that if the Petitioner is eligible for compensation in lieu of the temporary alternate accommodation or monthly compensation, the same shall be disbursed to the Petitioner regularly.

(G.S.KULKARNI, J.)

(S.C.DHARMADHIKARI, J.)