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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.2002 OF 2016

Ambedkar Nagar Rahiwasi
Zopadpatti Sangh ...Petitioner
vs.
Mumbai Metropolitan Region
Development Authority & Ors. ...Respondents

Mr.Milind Deshmukh for the Petitioner
Ms Kiran Bagalia for the respondent No.1
Mr.Anish Khandekar i/b Mr.Anoop Patil for respondent
No.2
Mr.Ajay Khaire i/b The Law Point for respondent no.3
Mr.Hemant Haryan, AGP for respondent No.5

CORAM : A.S.OKA, &
G.S.KULKARNI,JJ.
DATE : DECEMBER 20, 2016

P.C.:

1 Heard the learned counsel for the petitioner.
We have heard the learned counsel for the respondent
No.1 and the learned counsel for respondent No.3.
The petitioner in this petition is claiming to
represent its 204 members. Prayer clauses (a) and
(b) of the petition read thus:

“(a) This Hon'ble Court may be pleased to
issue a writ of Mandamus under Article 226 of
the Constitution of India and/or a writ in
the nature of Mandamus and/or any other
appropriate writ, and/or direction to declare
that all the hutments dwellers/ occupants to
get alternative residence/premises in the

redeveloped building on the same location were residing in the interest of justice;

(b) This Hon'ble Court may be pleased to issue a writ of mandamus under Article 226 of the Constitution of India and/or a writ in the nature of Mandamus and/or any other appropriate writ, and/or direction to declare that slum dwellers/occupants (petitioner) are entitled to redevelop their own building in the same locality through their own developer/Builder."

2 There is an affidavit-in-reply dated 3rd May 2016 filed by Shri Shekhar Balwant Lagwankar, Superintending Engineer of the Mumbai Port Trust In the said affidavit, it is stated that in the year 1997, the State of Maharashtra decided to take up a project with a view to bring about the improvement in the traffic and transportation in Mumbai Metropolitan Region. The Mumbai Port Trust, as a part of the said project, decided to lay down a single goods line between Raoli Junction, Wadala to Kurla on Central Railway. This decision was taken to ensure smoother flow and movement of its goods traffic on the harbour line of the Central Railway. Reliance was placed on the Memorandum of Understanding executed by and between the Mumbai Port Trust and the Central Railway. Reliance is also placed on a Tripartite Agreement dated 21th November 2013 executed by the Mumbai Port Trust, Mumbai Metropolitan Region Development Authority and the Society for Promotion of Area Resource Centre

(SPARC). By the said Agreement it was decided that SPARC would carry out survey of the hutments of the Project Affected Persons of the Project of the proposed railway line and identify the same. It is stated that the proposed railway line was divided into 9 sections from 2 to 10. However, sections 2 and 3 are not being considered due to change in the alignment. It is stated that from the survey carried out by the SPARC of the hutments which fall within 10 meters of the proposed railway line, it was revealed that total 1091 structures will be affected. It is further stated that no hutment can remain which is within the 10 meters from the proposed railway track.

3 There is an additional affidavit filed by Shri Lagwankar which is dated 22nd November 2016. In paragraphs 7 and 8 of the said Affidavit, it is stated thus:

"7 On scrutiny of the list of alleged members provided by the Petitioner (Exhibit-A), it was observed that out of the 204 members, only 86 persons are affected by the project. I say that as on the date, out of the 86 PAPs, 77 PAPs have been shifted to the new tenements. However, it is learnt that 40 such PAPs out of 77 have rented out their project affected premises to third parties. 7 out of 86 PAPs have taken the keys of the new tenements, but refused to shift to such tenement. The remaining 2 PAPs have filed Appeals before Respondent No.1, out of which

1 PAP has already shifted to a new tenement and rented his hutment to a third party and the other one has rented out his hutment but not shifted to the allotted tenement. Annexed hereto and marked Exhibit 3 is a list containing the details of the aforementioned 86 PAPs.

8 I most respectfully submit that all the purported members of the Petitioner Trust, who have been identified as PAPs have been shifted except 8 PAPs, 7 of whom have accepted keys but refused to move and 1 PAP has filed Appeal before Respondent No.1. It is therefore most respectfully submitted that almost all of the PAPs have already been rehabilitated."

4 The learned senior counsel for the Mumbai Port Trust on instructions states that out of 204 members of the petitioner whose names are appearing in Exhibit-A to the petition, only 86 will be affected by the project as stated in paragraph 7 quoted above. He states that in view of change of alignment of the proposed railway line, remaining 118 members will not be affected. We accept the said statement.

5 As regards 86 members of the petitioner, the factual statements made in paragraph 7 are accepted, the names of the said 86 persons have been set out in Exhibit-3 to the affidavit dated 22nd November 2016.

6 In view of these statements made in paragraphs 7 and 8 of the aforesaid affidavit dated 22nd November 2016 and in view of the statement made across the bar by the learned senior counsel for the Mumbai Port Trust which is recorded in paragraph 4 above, it is not necessary to entertain this petition.

7 Accordingly, the writ petition is disposed of. We make it clear that no adjudication is made on the merits of pending appeals preferred by the project affected persons.

(G.S.KULKARNI,J.)

(A.S.OKA,J.)