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

WRIT PETITION (L) NO.1037 OF 2016

M/s. Arihant Realtors and Another ...Petitioners

vs

Joint Registrar Cooperative Societies (Eastern
And Western Suburbs) Slum Rehabilitation
Authority and Others

...Respondents

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Mr. Girish Godbole, a/w. Mr. Bhavik Mehta and Ms. Karishma Pandya,
i/b. Dhruve Liladhar & Co., for the Petitioners.

Mr. Altaf Khan, for Respondent Nos. 3 to 12, 14 to 18.

Mr. S.S. Redekar, for Respondent No.23

Mr. Samir Shaikh, a/w. Mr. Mohsin Khan, for Respondent Nos. 21, 32 to 38.

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CORAM : S.C. GUPTE, J.

DATED: APRIL 16, 2016

P.C.:

. Rule. By consent Rule made returnable forthwith. None appears for Respondent Nos. 1 and 2 though served with private notice pursuant to the order dated 11.4.2016. Respondent Nos. 13, 19, 20, 22 and 24 to 31, though served, are neither represented by Advocates nor appearing in person. However, since other similarly situated Respondent Nos. 3 to 12, 14 to 18, 21, 23 & 32 to 38 are represented by Advocates who are heard and considering the nature of the order being passed, service of Rule on the said Respondent Nos. 13, 19, 20, 22, 24 to 31 is waived and the Petition is taken up for hearing and final disposal

forthwith.

2. Petitioners have impugned the orders dated 30.3.2016 passed by Respondent No. 1 being Exhibit I and J and the order dated 1.4.2016 passed by the Assistant Registrar attached to the office of Respondent No. 1, postponing the lottery for drawal of lots for allotment of tenements in the S. R. Scheme being implemented by Petitioner No. 1. Petitioners have filed applications under Section 33A of the Maharashtra Slum Areas (I. C. & R.) Act, 1971 before the CEO, SRA, for disqualifying Respondent Nos. 3 to 38 from the benefits of the Scheme on the ground that these Respondents are not cooperating despite being eligible occupants of structures in the S. R. Scheme. These Applications are pending adjudication before the CEO, SRA.

3. In the original Annexure II prepared by the Competent Authority and MHADA, a total number of 587 occupants were declared eligible, out of which 4 are subsequently held not eligible, thus reducing the eligible occupants to 583. Certain occupants declared ineligible initially had filed appeals before the appropriate appellate authorities. 19 occupants are held eligible by the Appellate Authorities after grant of LOI but before demolition of their structures and 49 occupants are held eligible by the Appellate Authorities after grant of LOI and after demolition of their structures. Thus, at present, there are a total number of 651 occupants who are held to be eligible occupants.

4. Without prejudice to the respective rights and contentions of the Petitioners and Respondent Nos. 3 to 38 about the merits and

demerits of such applications filed by Petitioners and with a view to expedite the allotment of 560 tenements in the Scheme which are ready for occupation, this Petition is being disposed off with the following directions. None of the Respondents has any objection to these directions.

- A. Without prejudice to the pending applications under Section 33A, Petitioner No. 1 shall deposit with the Accounts Department of SRA, rental compensation payable to the Respondent Nos. 3 to 38 for the period commencing from 1.04.2016 at the same rate payable to other cooperating eligible slum dwellers within a period of 4 weeks from today. In so far as Respondent Nos. 6, 17 and 19 are concerned, Petitioner No. 1 shall deposit the rent for the period ending 31.3.2016 directly in the Accounts Department of SRA instead of issuing fresh cheques in the names of heirs as directed by letter dated 4.4.2016 Exhibit N to the Petition. The rental compensation payable to Respondent No. 22, who has now transferred the tenement to Respondent No. 23, as also rental compensation payable to Respondent Nos. 5, 9, 21, 32 to 38(if any) till 31.03.2016 shall also be deposited with the Accounts Department of SRA within 4 weeks. The Competent Officer of SRA/Respondent No.1 may direct disbursement of such amounts to the respective claimants subject to their eligibility in terms of the Judgment and Order dated 15.12.2015 passed in W. P. No. 2960/2015. If there are any disputes regarding the compensation payable for alternative transit

accommodation by Petitioner No.1, the parties are at liberty to approach CEO, SRA or his delegate including Joint Registrar, Cooperative Societies attached to the office of SRA for redressing grievances. This order shall not come in the way of such redressal and shall be subject to it.

- B. Petitioner No. 1 shall prepare a Seniority List of the aforesaid 651 occupants according to the date of handing over possession and submit the same to Respondent Nos. 1 and 2 and to the Advocates for Respondent Nos. 3 to 12, 14 to 18, 23 and 32 to 38 on or before 19.4.2016 and also publish the same by pasting it at the site of the project. Petitioner No. 1 shall arrange for a Hall for conducting the meeting for the purposes of the lottery for allotment of tenements and make all necessary arrangements for conducting of such lottery. Respondent Nos. 1 & 2 are directed to publish notices in respect of such lottery in the newspaper on or before 19.4.2016. Such lottery shall be conducted on 25.4.2016 (Monday) for 560 Tenements and only the names of the first 560 occupants in accordance with the Seniority List and as per the user of tenements will be included in the Lucky Draw for the Lottery. If there are any contested issues pertaining to the Seniority List, the same may be decided/sorted out by the SRA. In case any persons out of Respondent Nos. 3 to 38 find a place in such list of first 560 occupants, even their names shall be included in the Lottery. Respondent Nos. 1 & 2 shall, thereafter, hand over possession to the eligible occupants, save and except any of Respondent Nos. 3 to 38 as may find place

on the list, on or before 30.4.2016.

- C. Respondent No. 2 or his delegate is directed to hear and decide the applications filed by the Petitioners on 12.1.2016, 21.01.2016 and 31.03.2016 after hearing the Petitioners and the concerned Respondents and in accordance with law within a period of 8 weeks from today. The Petitioners shall serve copies of the applications on the Respondents appearing through Advocates in this Petition on such Advocates which shall be treated as valid service. In respect of the other Respondents, notices shall be served by Respondent No.2 or his delegate personally with copies of the applications.
- D. Even if any of Respondent Nos. 3 to 38 figure in the first 560 occupants in the Seniority List for Lottery, the allotment of tenements to such Respondents shall be treated only as tentative allotments subject to the outcome of the applications filed by the Petitioner No. 1 against such Respondents under Section 33A of the Act and hence, physical possession of such tenements shall not be handed over to them by Respondent Nos. 1 and 2 immediately. If the application/s for disqualification is/are decided against such Respondent/s, subject to the right of such person/s to challenge such order, the SRA will retain the possession for a period of further two weeks from the date of communication of such order/s to the concerned Respondent/s and such retention of possession shall be subject to the orders which may be passed in the matter thereafter. In case the application/s is/are rejected,

Respondent Nos. 1 and 2 shall hand over possession of the concerned allotted tenement/s to such Respondents, if any, but not before expiry of a period of 2 weeks from the date of communication of such order to the Petitioners. Such withholding of possession shall also likewise be subject to orders which may be passed in the matter thereafter. Respondent Nos. 1 & 2 are directed to hand over possession to all other eligible occupants as per the lottery on or before 30.4.2016.

5. Rule made absolute to the aforesaid extent with no order as to costs.

(S.C. GUPTE, J.)