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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L)NO.2362 OF 2016

M/s.Shakti SRA Co-operative
Housing Society Limited ...Petitioner
vs.
The Chief Executive Officer
and the Secretary SRA & Ors. ...Respondents

Mr.M.M.Vashi, Senior Counsel a/w Ms Aparna Devkar
i/b M.P.Vashi Associates for the Petitioner
Mr.S.G.Kudle for the respondent Nos.4 to 8.
Mr.Abhijeet Desai for the respondent No.1
Mr.Mohit Jadhav, AGP for the respondent Nos.2 and 3

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

P.C.:

1 Heard the learned senior counsel for the petitioners, the learned counsel for the first respondent, the learned Additional Government Pleader for second and third respondents, the learned counsel for the fourth to eighth respondents and the learned counsel for the ninth respondent. Rule. The respective learned counsel for the respondents waive service. Forthwith taken up for final disposal.

2 The challenge in this petition under Article 226 of the Constitution of India is to the order dated 9th August 2016 passed by the Secretary of the Slum Rehabilitation Authority (for short `SRA')

pursuant to the order dated 22nd June 2016 passed by this Court in Writ Petition (L) No.706 of 2016.

3 Writ Petition (L) No.706 of 2016 was filed by the fourth to eighth respondents in this petition. By the order dated 22nd June 2016, a Division Bench of this Court directed the Chief Executive Officer of the SRA to depute a senior Official to verify the correctness of the claim made by the petitioners therein as regards their eligibility. The said Officer was directed to examine the documents which are annexed to the petition. The Officer was directed to hear the representative of the first petitioner-society in the present petition. The Division Bench directed the said Officer to pass a speaking order assigning the reasons. On the basis of this order that the impugned order dated 9th August 2016 has been passed.

4 A liberty was granted by the same Division Bench under order dated 19th August 2016 in Chamber Summons (L) No.255 of 2016 to the petitioners herein to take out appropriate proceedings in relation to the impugned order. Accordingly, the present petition has been filed.

5 On the last date, apart from other submissions on merits, it was pointed out across the bar that in the impugned order, extensive reliance is placed on the report dated 18th July 2016 submitted by the Deputy Collector(Encl/Rem.) and Competent Authority, Malad, Mumbai as well as the letter dated 4th August

2016 received from the Joint Registrar of Co-operative Societies/SRA. It was pointed out by the petitioners that the copies of the said documents were not supplied to the petitioners and therefore, the petitioners could not deal with the said documents at the time of hearing before the Secretary of the SRA.

6 Today, the learned counsel for the first respondent-SRA has accepted on instructions that the copies of both the documents were not furnished to the petitioners in this petition before passing the impugned order. He states that if this Court directs, the Secretary of the SRA will give a fresh hearing to all concerned parties and will pass a fresh order.

7 Perusal of the impugned order dated 9th August 2016 shows that extensive reliance has been placed by the Secretary of the SRA on the report dated 18th July 2016. In our view, as the reliance was placed on the said report in the impugned order, elementary principles of natural justice required that a copy of the report should have been furnished to the petitioners so that they could have made submissions dealing with the said report. Hence, there is a breach of principles of natural justice. Today, in the open Court, copies of the report dated 18th July 2016 and the aforesaid communication dated 4th August 2016 have been handed over by the learned counsel for the SRA to the Advocate on record for the petitioners.

8 We may add it here that the grievance regarding non supply of the documents is confined to the aforesaid two documents only.

9 As the impugned order is vitiated by the breach of principles of natural justice, we pass the following order:

(I) Impugned order dated 9th August 2016 is hereby quashed and set aside;

(II) We direct the petitioners and fourth to eighth respondents to remain present before the Secretary of the SRA on 28th December 2016 at 11.00 a.m.

(III) As the petitioners have already filed submissions in writing, it will be open for the petitioners to file supplementary submissions on the aforesaid date fixed;

(IV) After giving an opportunity of being heard to all the concerned parties, the Secretary of the SRA shall pass a fresh order as expeditiously as possible and in any event, on or before 31st January 2017;

(V) As far as the ninth respondent is concerned, it is for the Secretary of the SRA to decide whether he is required to be heard before passing order;

(VI) All contentions on merits are kept open;

(VII) Rule is partly made absolute on above terms with no order as to costs;

(VIII) All concerned to act upon an authenticated copy of this order.

(G.S.KULKARNI,J.)

(A.S.OKA,J.)