

VPH

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

WRIT PETITION (L) No. 421 OF 2017
WITH
CHAMBER SUMMONS (L) No. 59 OF 2017

Shree Azad SRA Cooperative Housing Society Ltd. & Anr.	...	Petitioners
Vs.		
State of Maharashtra & Ors.	...	Respondents
And		
Smt. Mamta Pathak	...	Applicant in (chamber summons)

Mr. Anuj Narula a/w Meena Bhate i/b Jhangiani Narulla & Associates,
for the Petitioners.

Mr. Hemant Haryan a/w Sukanta Karmakar, Vijay Patil, for
Respondent Nos. 2 and 3.

Mr. Chirag Balsara i/b Arun Panickar, for the Applicant in chamber
summons.

CORAM : V. M. KANADE, &
P. R. BORA, JJ.

DATE : MARCH 10, 2017

PC.

1. The Petitioners by this petition, which is filed under
Article 226 of the Constitution of India, are seeking following reliefs:

“(a) that this Hon'ble Court be pleased to issue a writ of

certiorari or any other writ, order or direction in the nature of certiorari calling for the records and proceedings in respect of impugned order dated 25th January, 2017 passed by Respondent No. 2 purporting to hold the commencement certificate dated 9th December 2010 (re-endorsed on 15th December 2017) issued in respect of the Rehab Building in abeyance and after examining the validity, legality and propriety thereof, be pleased to quash and set aside the same.

- (b) that this Hon'ble Court be pleased to issue writ of mandamus directing the Respondent Nos. 1 & 3 initiate an enquiry in the circumstances under which the Order dated 25th January 2017 was made available to the falsely and fraudulently elected Managing Committee Members namely Mamta Pathak by Respondent No. 2 or his office and in respect of the forgery of the "Right to Information Stamp", committed by Respondent No. 2 alongwith the said Mamta Pathak;
- (c) pending the hearing and final disposal of the petition, this Hon'ble Court be pleased to stay the effect, implementation and operation of the impugned order dated 25th January, 2017; and

- (d) For interim and ad-interim reliefs in terms of prayer (c) above;
- (e) For costs;
- (f) For such other and further reliefs as the nature and circumstances of the case may require.”

2. We are informed that the proceeding under Section 13(2) of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (for short “Slum Act”) are pending before the CEO / SRA. Mr. Vijay Patil, learned counsel appearing for the SRA submits that by the end of this month, the decision will be taken.

3. In view of this, we do not propose to give any direction at the moment. If any order is passed in favour of the Petitioners by the CEO / SRA, obviously the commencement certificate issued in respect of rehab building, which was kept in abeyance, will have to be released. Hence, the writ petition is disposed of. Needless to state that if any adverse order is passed, the Petitioners may challenge the same. We have not examined merits of the case since the proceedings under section 13(2) of the Slum Act are pending before the CEO / SRA. All contentions raised by the parties in this petition are kept open.

4. In view of disposal of the writ petition, Chamber Summons (L) No. 59 of 2017 filed therein does not survive and is accordingly disposed of.

Sd/-
[P. R. BORA, J.]

Sd/-
[V. M. KANADE, J.]