

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL ORIGINAL JURISDICTION

WRIT PETITION (L) NO. 2278 OF 2017

M/s. Mauli Sai Developers Pvt. Ltd. & Anr. ...Petitioners

vs.

New Navratna Vakratunda Cooperative
Housing Society and Ors.

...Respondents

Mr. M.M. Vashi, Sr. Advocate a/w Ms. Panti Desai for the
Petitioners.

Mr. Tejas Gokhale i/by M/s. Ashok Purohit & Co. for respondent
no. 2.

Mr. Ajay Patil for respondent no. 1.

**CORAM : SHANTANU KEMKAR &
SMT. ANUJA PRABHUDESSAI, JJ.**
DATE : SEPTEMBER 06, 2017

P.C.:

Rule. Rule is made returnable forthwith. By consent heard
forthwith.

2. By filing this petition under Article 226 of the Constitution of
India, the petitioner has challenged the order dated 18.3.2017
Exhibit. "I" by which the High Power Committee has taken a view
that the petitioner has failed to make out a case for urgency in the
matter.

3. Learned counsel for the petitioner has brought to our notice
the order dated 23.12.2016 passed by this court in the earlier
round of litigation in WP No.2329 of 2016 filed by the petitioner. In

the said case, after exhaustively dealing with the matter, the Division Bench in Paragraph 19 to 21 had observed thus :

“19. Now, coming to the facts of the case, the Application filed by the Petitioners has not been considered even as far as the prayer for ad-interim/interim relief is concerned.

20. Now, as per the statements made in the affidavits, the High Power Committee will be available on 7th January, 2017 and 21st January, 2017. We direct the High Power Committee to take up for hearing the Application made by the petitioners for grant of prayers for ad-interim/interim relief either on 7th January, 2017 or 21st January, 2017.

21. We direct that the State Government shall ensure that all necessary infrastructure is made available to both the High Power Committees including proper Court rooms/offices, adequate staff computers, printers, serves, etc. It will be always open for the Chairpersons of both the High Power Committees to submit a requisition for providing necessary infrastructure. In terms of the requisition issued by the Chairperson of the High Power Committee, the State Government shall take steps to provide necessary infrastructure.”

4. Thereafter, necessary amendment was made by the petitioner by impleading the new Developer. Thereafter, the matter was placed before the High Power Committee for consideration of the prayer for interim relief. However, the High Power Committee instead of passing the order on the prayer for interim relief, has passed the aforesaid order saying that no case is made out for urgency in the matter.

5. In our considered view the approach of the High Power Committee cannot be accepted as once this court has already

directed the High Power Committee to decide the petitioner's prayer for interim relief within a particular time frame, it was not open for the High Power committee to have said that no case for urgency is made out. In our considered view, the impugned order of the High Power Committee runs contrary to the directions issued by this court for deciding the petitioner's application for interim relief. In the circumstances, in our considered view, the impugned order passed by the High Power Committee cannot be sustained.

6. In the result, we set aside the impugned order and direct the High Power Committee/Apex Grievance Redressal Committee to consider and decide the petitioner's application for interim relief as expeditiously as possible and in any case not later than one month from the date of appearance of the parties before the said Committee. The parties to appear before the office of the said committee on 16th September, 2017.

7. With the aforesaid directions, petition is disposed of. Rule is made absolute in the above terms.

(SMT.ANUJA PRABHUDESSAI, J.) (SHANTANU KEMKAR, J.)