

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

WRIT PETITION (L) NO.2338 OF 2017

Samayadurai K. Agamudian

...Petitioner

vs.

The State of Maharashtra and Others

...Respondents

Ms. Poonam Panicker i/b. Panicker and Associates, for the
Petitioner

Mr. S.P. Thorat, for Respondent Nos. 1 and 2.

Mr. M.A. Sayyed, AGP for the Respondents-State.

Mr. Prasad Dhakephalkar a/w. Ms. Parimal Nagporwala and Mr.
Vasant Shelke i/b. M/s. Hariani & Co., for Respondent No. 5.

**CORAM : SHANTANU KEMKAR &
SMT. ANUJA PRABHUDESSAI, JJ.**

DATE : SEPTEMBER 11, 2017

P.C.:

. By filing this Petition under Article 226 of the
Constitution of India, the Petitioner is seeking the following reliefs:

- (a) Rule be issued.
- (b) This Court be pleased to issue the Writ of Mandamus or direction or order or appropriate writ in the nature of Mandamus directing the Respondent No. 1 to 2 herein to disqualify and remove the Respondent No. 5 as the Developer / Promoter of the present SR Scheme arising out of the LOI dated 25th November, 2016 and further directing them to appoint a fit and proper Developer/ Promoter in place of Respondent No. 5 after receiving a report of enquiry from the officer or a committee to be appointed by this Hon'ble Court in respect of the State of affairs of the present SR project concerning all the issues enumerated in paragraph No. 35 of this Petition which SR project is in respect of the

Petitioner's M/s. Sai Darshan S.R.A. Co-Op. Housing Society Limited, wherein the Petitioner is a member situated at CTS No. 210, Patkar Compound, Gilbert Hill Road, Andheri (w), Mumbai.

(c) *This Court be pleased to issue the Writ of Mandamus or direction or order or appropriate writ in the nature of Mandamus directing the Respondent No. 1 to 2 and 6 to take over the present SR project arising out of LOI dated 25th November, 2016 and LOI dated 25th August, 1998 and complete the same by its own agencies as per the law, after receiving a report of enquiry from the officer or a committee to be appointed by this Court in respect of the State of affairs of the present SR project concerning all the issues enumerated in paragraph No. 35 of this Petition being the SR project in respect of Petitioner's Housing Society namely M/s. Sai Darshan S.R.A. Co-Op. Housing Society Limited, wherein the Petitioner is a member situated at CTS No. 210, Patkar Compound, Gilbert Hill Road, Andheri (w), Mumbai.*

(d) *This Court be pleased to direct the Respondent No. 1 to take appropriate action as per law against all those who are involved in the absolute misuse and patent, illegalities of the current SR scheme, including prosecution of the concerned parties based on the report to be submitted by an officer or a committee to be appointed by this Court to enquire and investigate into the affairs of the present SR project, arising out of LOI dated 25th November, 2016 and LOI dated 25th August, 2016.*

(e) *Pending the hearing and final disposal of the Petition this Court be pleased to appoint an upright IAS Officer/ IPS Officer of the State of Maharashtra unconnected to the present SR scheme or a Committee consisting of such person as deemed fit by this Court to make an investigation and enquiry with respect to the State of affairs of the present SR scheme arising out of LOI dated 25th November, 2016 and LOI dated 25th August, 1998 and submit a report to this Court within 90 days from the date of such appointment concerning the issues raised in paragraph NO. 35 of this Petition.*

(f) *Pending the hearing and final disposal of the Petition, this Court may be pleased to stay the SR project arising out of LOI dated 25th November, 2016 and LOI dated 25th August, 1998.*

(g) Pending the hearing and final disposal of the Petition, this Court may be pleased to protect the structure/ dwelling house of the Petitioner, from being demolished by the Respondents and or by removing the Petitioner from his dwelling house/ structure by the Respondents.

(h) Any other and further reliefs be granted by this Court as per the nature and circumstances of the case.

(I) Cost of this Petition be provided for.

2. We find that the Petitioner in the capacity of Constituted Attorney of M/s. Sai Darshan SRA Co-Operative Housing Society Limited (in short “the Society”) had filed a Writ Petition No. 2242 of 2015 seeking direction against Respondent No. 1 – State as also Respondent No. 2 – Slum Rehabilitation Authority to ensure that redevelopment project of the Petitioner-Society is completed within the stipulated period.

3. Having regard to the aforesaid fact, in our considered view the Petitioner through this Writ Petition cannot be allowed to seek relief against the same Society asking the Respondents to disqualify and remove the same Society for whom the Petitioner had filed the earlier Petition seeking the relief as aforesaid.

4. We fail to understand as to how the present Petitioner who earlier had in the capacity of Constituted Attorney filed Writ Petition No. 2242 of 2015 seeking relief in favour of the fifth Respondent and now how he could file this Petition for quashing

the Letter of Intent in favour of the same Society i.e. Respondent No. 5.

5. Thus it is very clear that the reliefs which have been sought in this Petition are just opposite to the reliefs claimed in the Writ Petition No. 2242 of 2015 by the Petitioner himself.

6. Such practice is highly objectionable. Accordingly, we dismiss this Writ Petition with cost to the extent of Rs. 1,00,000/- (One Lac) payable within three months. If the cost is not deposited with the Registry within three months, the Respondent Collector shall take appropriate steps for recovering the same as arrears of land revenue.

7. With the aforesaid, the Petition is disposed of.

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