

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 2927 OF 2016**

Ramesh Ganpat Jadhav and another

..Petitioners

Vs.

The High Power Committee and 4 Others

..Respondents

**Mr. Milind Sathe, Senior Advocate a/w Mr. J. R. Vyas
Advocate for the Petitioners**

Mr. Kunal Bhang, Advocate for Respondent no. 3.

Mr. Anoop Patil, Advocate for Respondent no. 1 & 2.

**Mr. Chirag Balsara a/w Mr. H. Tatli i/b Mr. S. Shah
Advocate for the Respondent no. 4.**

**CORAM : R. M. SAVANT, J &
SMT. SADHANA S. JADHAV, J.**

DATE : 14th JUNE, 2017

P.C.

1 The order dated 14/07/2016 passed by the High Power Committee constituted under the Full Bench Judgment of this Court in **Tulsiwadi Navnirman Co-op Hsg Society Vs. State of Maharashtra [(2008) 1 B.C.R. 1.]** is taken an exception to by way of the petition. In terms of the said judgment, grievance if any in respect of implementation of a Slum and Rehabilitation Scheme has to be addressed by the said High Power Committee.

2) It seems that application came to be filed by the Respondent no. 3 herein, Vishnu Bhalekar in his capacity as the Chief Promoter of Kadeshwaridevi SRA Co-operative Housing Society, making a grievance as regards appointment of respondent no. 4 as developer to implement the Slum

Rehabilitation Scheme in question. In the said application which is numbered as 31 of 2016, the Petitioners herein had filed an intervention application for being permitted to intervene and for being substituted as Appellants and for a direction that the Appellant to join applicants as party Appellants and carry out amendment to the proceedings. The application filed by Respondent no. 3 came to be permitted to be withdrawn by the impugned order and resultantly, application for intervention filed by the Petitioners turned infructuous. It is the permission to withdraw the said application granted vide the impugned order which is taken exception to by way of the above petition on the ground that the said application could not have been withdrawn as the same was filed on behalf of the proposed society by the appellant Shri. Bhalekar who was authorized to do so by a resolution passed in that behalf.

3) During the course of the hearing of the above petition, the learned counsel appearing on behalf of Respondent no. 4, Balsara has pointed out that there are 167 eligible slum dwellers out of which 135 have entered into individual agreements with Respondent no. 4 developer. He further stated that process of shifting to the transit accommodation would be commenced as the Respondent no. 4 would be paying transit rent to the persons who have entered into individual agreements. It was his contention that only minuscule number of eligible slum dwellers are now remaining who have not entered into agreement with Respondent no. 4 as of date. The Petitioners who are two

in number are out of the remaining eligible slum dwellers. Though the said fact is sought to be disputed by the learned counsel, Shri. Sathe, in our view, the said fact assumes importance in the context of the permission for withdrawal of the application filed by Shri. Bhalekar granted by the High Power Committee. In our view, interest of justice would be served if the petition is disposed of by issuing the following directions:

(i) The Petitioners would be entitled to file an application *de-novo*, questioning the order of C.E.O. Dated 26/02/2016, refusing to remove Respondent no. 4 as developer for the project.

(ii) If the said application is filed within two weeks from date, with a copy served on the developer and the Respondent no. 3, the High Power Committee would decide the said application on its own merits and in accordance with law, within 8 weeks thereafter, uninfluenced by the fact that the application has been withdrawn by Shri. Bhalekar.

(iii) In the context of the submission of Mr. Balsara as recorded above, the High Power Committee also to consider whether the application that would be filed by the Petitioners is supported by the majority will of the slum dwellers and the application is maintainable at the behest of the Petitioners.

(iv) It would be open for High Power Committee to also adjudicate upon the application filed by Respondent no. 5 along with application that would be filed by the Petitioner.

(v) With the aforesaid directions, the above Writ Petition is disposed of.

[SMT. SADHANA S. JADHAV, J.]

[R.M.SAVANT, J]