

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

WRIT PETITION LOD.NO.3437 OF 2017

NST Realtors Pvt. Ltd. .. Petitioner
Versus
Deputy Collector (Western Suburbs)
and Ors. .. Respondents

Mr.Chirag Balsara with mr. Aftab Diamondwala with Ms. Asha Nair,
Mr. Aditya Deolkar i/b. Diamondwala & Co. for petitioner
Mr. U.B.Patil for respondent No.1, 2 and 5
Mr. S.G.Surana for respondent No.3
Mr. Sagar Patil for respondent No.4
Mr. Kunal Bhanage for respondent No.6

CORAM : SHANTANU S. KEMKAR &
G.S.KULKARNI, JJ.

DATE : 7th December 2017.

P.C.

1] Heard learned Counsel for petitioner. The petitioners have challenged the order dated 9th November 2017 passed by the High Power Committee (for short "HPC") in Application No.138 of 2017, whereby HPC has affirmed the order passed by Dy.Collector, SRA dated 5th May 2017, by filing this petition under Article 226 of the Constitution of India.

2] Learned Counsel for the petitioner submits that the impugned order passed by the HPC is non speaking order whereby the petitioner's contention explaining cause of delay has not been considered and mechanically the order has been passed affirming the order passed by Dy.Collector, SRA.

3] On the other hand, learned Counsel for the respondent No.3 has supported the impugned order. He submits that the Dy.Collector's order is a reasoned order which has been affirmed by the HPC.

4] Having considered the submissions made by the learned Counsel for the parties and having gone through the order passed by the HPC, we are of the view that the HPC has not considered the various grounds raised by the petitioner while supporting his cause for delay in implementation of SRA scheme as also the Circular No.148 dated 2nd February 2015 has not been considered and has passed the cryptic order. The relevant paragraph recording the so called reason reads thus:-

“.... that developer and Managing Committee of Society did not cooperate for issuance of certified Annexure – II. Therefore, the proposal is returned by them to SRA without any action.”

5] In our considered view, the aforesaid reason given by HPC cannot be said to be a speaking order. It cannot be said that the HPC is not required to give reasons. It is settled law that failure to give reasons amounts to denial of justice as the reasons are live links between the mind of the decision taker to the controversy in question and the decision or the conclusion arrived at. In these circumstances, in the absence of reasons in the impugned order of HPC, we have no option but to set aside the impugned order.

6] As a result, we set aside the impugned order and remand the matter back to the HPC to hear the matter afresh and pass a reasoned order. As a consequence, the notice dated 30th November 2017 “Exhibit-I” to the petition also stands set aside.

7] All contentions of parties are kept open.

8] The HPC shall decide the matter as expeditiously as possible and preferably within a period of three months from the date of receipt of copy of this order.

9] The petition is allowed to the extent indicated above.

(G.S.KULKARNI, J)

(SHANTANU S. KEMKAR, J.)