

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
WRIT PETITION LODGING NO. 3262 OF 2017**

|                                   |                  |
|-----------------------------------|------------------|
| Prathamesh Developers             | .....Petitioners |
| versus                            |                  |
| The State of Maharashtra and ors. | .....Respondents |

Mr. Birendra Saraf along with Mr. Bipin Joshi, advocates for the petitioners.  
Mr. Sukanta Karmarkar, AGP for the State.  
Mr. P. G. Lad along with Ms. Aparna Murlidharan and Ms. Sayli Apte, advocate for the respondent Nos. 2 and 3.  
Mr. A. U. Patil, advocate for the respondent No.4.

**CORAM : RANJIT MORE &  
SMT.ANUJA PRABHUDESSAI, JJ.**

**DATE : 16<sup>th</sup> JANUARY, 2018.**

**P. C. :**

Rule. Rule is made returnable forthwith and, by consent, the petition is heard finally.

2. Heard Mr.Saraf, learned counsel for the petitioner, Ms. Karmarkar, learned AGP for the State, Mr. Lad, learned counsel for the respondent Nos.2 and 3 and Mr. Patil, learned counsel for the respondent No.4.

3. By the present petition filed under Article 226 of the Constitution of India, the petitioner is challenging the revocation of NOC issued by the respondent No.2 in respect of slum rehabilitation project

situated on the part of property admeasuring 2217.50 sq.meters which is a part of larger plot admeasuring 6685 sq.meters bearing CTS No.636 (Part) owned by the respondent No.2. The petitioner is in the process of implementing slum rehabilitation project comprising 167 structures situated on the said plot of land admeasuring 2217.50 sq.mts. The slum dwellers of the above 167 structures formed a society and the said society appointed petitioner as developer of the subject property. The petitioner, thereafter, obtained requisite permissions and NOC from the concerned authorities. These permissions and approvals were granted only after NOCs were issued by the respondent No.2 on 20<sup>th</sup> January, 2009 and 7<sup>th</sup> June, 2017 for redevelopment of the subject property.

4. By the impugned letter/order dated 1<sup>st</sup> September, 2017, the respondent No.3 issued directions to the petitioner to stay implementation of the slum redevelopment scheme. The said directions are issued as the petitioner is implementing the scheme on the part of the property bearing CTS 636 (Part) admeasuring 2217.50 square meters and due to that, the remaining portion of the said CTS is unviable due to narrow size of the plot.

5. It is the contention of the petitioner that pursuant to the NOC granted by the respondent No.2 and the permissions and approvals granted to them by the respondent No.4 to redevelop the subject

property, the petitioner commenced the redevelopment work and the subject plot was vacated except for the two structures. The construction work has also reached up to the plinth level and at this belated stage, the respondent No.3 has unilaterally stayed the implementation of the scheme.

6. Mr. Lad, learned counsel for the respondent Nos. 2 and 3 submitted that the impugned letter/order is issued taking into consideration that the remaining portion of CTS No.636 (part) would not be viable for further redevelopment and, therefore, it would be just to redevelop the same along with the subject plot of land which is being developed by the petitioner. No further explanation is given by Mr. Lad in support of the impugned letter/order.

7. Having gone through the petition and having considered the rival submissions, we find merit in the petition. The petitioner commenced the redevelopment work only after obtaining NOC from the respondent No.2 and after getting appropriate permissions and approval from the respondent No.4-Planning Authority. The slum dwellers have vacated their respective structures and they have shifted to transit accommodation. The petitioner, in this regard, has incurred enormous expenses. As stated above, the construction work has commenced and it has now come to the plinth level. Be that as it may,

while issuing the impugned letter/order, the respondent No.3 has not given any notice nor the petitioner has been heard and, therefore, the impugned letter/order is in violation of the principles of natural justice. That apart, the petitioner has acted on the basis of NOC issued by the respondent No.2 and, therefore, the respondent No.3 is estopped from issuing such directions. At this stage, it is to be noted that the respondent No.4 – Planning Authority, as stated above, has granted required permissions and approvals to the petitioner. The respondent Nos. 2 and 3 are not the planning authority and hence they cannot issue such directions.

8. In fact, Dr. Saraf, learned counsel for the petitioner, in this regard, has placed reliance on document at page 66. This document shows that Value Construction S.R.A. has put up a proposal for implementation and redevelopment scheme in respect of the remaining portion out of the plot bearing CTS 636 (Part). This negates the contention of Mr. Lad, learned counsel for the respondent Nos. 2 and 3 that balance area is not viable for redevelopment. We are also of the opinion that if the impugned letter/order is allowed to stand, it will cause great prejudice not only to the petitioner but also the 167 slum dwellers who have already been vacated.

9. Taking the totality of the facts and circumstances of the case into consideration, we are of the considered view that the impugned letter/order cannot be sustained and the same is accordingly quashed and set-aside. The writ petition is allowed in terms of prayer clause (a) and is disposed of as such.

**(SMT. ANUJA PRABHUDESSAI, J.)**

**[RANJIT MORE, J.]**