

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

**CONTEMPT PETITION NO. 47 OF 2016
IN
ARBITRATION PETITION NO. 800 OF 2013**

Dinesh Ramniklal Vadodaria & Ors.

...Petitioners

vs

Hemant Vinayak Parikh & Anr.

...Respondents

Mr.Ajit Tamhane I/b. Tamhane & Co. for Petitioners.

Mr.Pankaj Kowli I/b. S.K. Srivastav & Co. for Respondent No.1.

Mr.Anoop Patil for Respondent No.2-SRA.

CORAM : S.C.GUPTE, J.

DATE : 30 APRIL 2019

P.C. :

By an order dated 15 April 2019, Slum Rehabilitation Authority ("SRA"), who has been joined as Respondent No.2 to the present petition, was directed to file an affidavit verifying the position of the SRA project originally undertaken by Respondent No.1 contemnor. Respondent No.2 has been unable to file an affidavit due to election duties of the concerned officer.

2 This petition alleges a willful breach or defiance of an order passed by this court in an arbitration petition. The order dated 25 October 2013 *inter alia* required payment of Rs.15 crores towards full and final settlement of the Petitioners' claim towards retirement from the partnership firm of M/s.SSV Realtors, where the Petitioners and Respondent were partners. The partnership business was thereafter carried on by the Respondent. The business of the partnership *inter alia* included

implementation of an SRA scheme for which the firm of M/s.SSV Realtors was appointed as a developer. The contempt petition alleges breach or disobedience of the order requiring the Respondent to pay the sum of Rs.15 crores. It is the case of the Petitioners that out of the sum of Rs.15 crores, only Rs.65 lakhs have been paid by the Respondent to the Petitioners. On the other hand, it is the case of the Respondent contemnor that he has paid not only a sum of Rs.65 lakhs by cheque but a further amount of Rs.3 crores in cash. The court is not expected to resolve this dispute whilst exercising its contempt jurisdiction. What is, however, apparent is that even on the Respondent's own showing, a sum of over Rs.11 crores has not been paid despite the order of 25 October 2013. The order also requires interest on dishonour of cheques at the rate of 24% per annum either till the date of actual payment or at the end of January 2015, whichever is earlier.

3 Learned Counsel for the Petitioners submits that by an order passed by Apex Grievance Redressal Committee, the engagement of M/s.SSV Realtors as developers of the SRA project has been terminated. It is submitted that as and when a new developer is appointed under Sub-section (3) of Section 13 for the project and he is made to deposit an appropriate sum towards compensation payable to M/s.SSV Realtors, SRA may be directed not to release the amount covering the Petitioners' dues. Learned Counsel submits that if this protection is granted, his clients may not press their contempt petition.

4 Learned Counsel for the Respondent has no objection to this course being adopted.

5 Learned counsel appearing for Respondent No.2 SRA submits that CEO, SRA shall also co-operate with the directions to be issued by the court whilst disposing of the present contempt petition.

6 Accordingly, the following order is passed :

(i) CEO, SRA shall withhold a sum of Rs.18 crores from out of the compensation payable by a new developer of the project to M/s.SSV Realtors and not release the same to the Respondent or anyone on behalf of M/s.SSV Realtors, until orders of the court;

(ii) Immediately upon deposit of any sum by a new developer under Section 13(3) of Maharashtra Slum Areas (Improvement, Clearance And Redevelopment) Act, 1971, CEO, SRA shall communicate the fact of such deposit to both the Petitioners as well as the Respondent;

(iii) The Petitioners shall be entitled to apply for execution of the order dated 25 October 2013 passed in Arbitration Petition No.800 of 2013 by seeking a garnishee order against CEO, SRA in respect of the Petitioners' claim under that order;

(iv) All rights and contentions of the parties of the

exact amount of the dues owed by the Respondent to the Petitioners are kept open to be agitated before the court as and when the execution application is made by the Petitioners.

7 In view of this order, the Petitioners do not press the present contempt petition.

8 The contempt petition, accordingly, is disposed of in terms of the order above.

(S.C. GUPTE, J.)