

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

WRIT PETITION NO. 2299 OF 2017

M/s.Atlantic Constructions. ... Petitioner.
V/s.
The Chief Executive Officer,
Maharashtra Housing and Area Development
Board and others. ... Respondents.

Mr.Sujeet Kurup with Mr.Shivaji Yadav and Ms.Lavina Sarfare
for the petitioner.

Mr.Sukanta Karmakar, AGP for the respondent- State.

Mr.Anoop Patil for respondent No.3.

Mr.P.A.Sarwankar for respondent No.5.

CORAM : A.S.OKA AND M.S.SANKLECHA, JJ.

DATE : 29th March 2019

P.C.:

In this petition under Article 226 of the Constitution of India which is filed on 21st July 2017, the main substantive relief is for seeking a writ of mandamus against the third respondent- the Chief Executive Officer of the Slum Rehabilitation Authority to process the proposal dated 7th July 2004 submitted by the petitioner for issuance of Annexure-I, II and III. The case in the petition is that the respondent No.5 appointed the petitioner as a Developer on the basis of the development agreement executed on 10th September 1999. Reliance is also placed on the consent decree passed by the City Civil Court which, according to the petitioner, confers a right on the petitioner to develop the subject land.

2. After having heard the learned counsel for the petitioner, we find that there is a gross delay on the part of the petitioner and there is a long inaction. On 10th February 2009, the Slum Rehabilitation Authority

(for short “SRA”) addressed a letter to the petitioner (Exhibit-I to the petition) calling upon the petitioner to make compliance by furnishing about 13 documents. There was no reply sent by the petitioner to the said letter. On 24th September 2013 (after waiting for more than four years), the SRA addressed a letter to the petitioner and its architect pointing out that the petitioner is not interested in implementing the scheme. The petitioner was called for hearing on 5th October 2013. The petitioner replied on 4th October 2013 to the Chief Executive Officer of SRA by contending that they are interested in developing the property.

3. Careful perusal of the averments made in the petition will show that after 2013, the petitioner neither moved the concerned authority nor this Court. Only on 21st July 2017, that the petitioner belatedly filed this petition.

4. Reliance placed by the petitioner on the affidavit-in-reply of the respondent No.5 will not help the petitioner. All that the reply contends is that the petitioner may be directed to submit a fresh proposal.

5. Considering the complete inaction and long delay on the part of the petitioner, this is not a fit case to exercise powers under Article 226 of the Constitution of India. The situation has undergone a drastic change from 2004 to 2017.

6. We, therefore, decline to entertain this petition and the same is, accordingly, rejected. However, this order will not prevent the petitioner or the slum dwellers from submitting a fresh scheme in accordance with law.