

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

WRIT PETITION NO.189 of 2019

1. Blue Diamond Construction Company }
2. Ayodhya Nagari Coop Housing Society } .. Petitioners

vs

1. Slum Rehabilitation Authority }
2. The Chief Executive Officer,
Slum Rehabilitation Authority }
3. The Dy.Collector,
Slum Rehabilitation Authority }
4. The Chief Officer
Maharashtra Housing and Area Development
Board (MHADA)
5. The Dy.Collector (Enc/Rem) and }
Competent Authority, Bandra }
6. Sairam Cooperative Housing Society
(Prop) }
7. The Chairman,
Apex Grievance Redressal Committee
.. Respondents

Mr.Shiraz Rustomjee Sr.Counsel with Ms.Shreya Parikh
I/b Mr,Vishal S.Shriyan for Petitioners

Mr.Vijay Patil for Respondent nos.1 to 3 & 7
Mr.Girish Utangale with Mr.Chetan Mhatre
I/b M/s Utangale & Co for Respondent no.4

Mr.A.L.Patki Asst.Govt.Pleader or Respondent no.5

Mr.D.A.Athawale for Respondent no.6.

Coram : G.S.KULKARNI, J
Date : 8.2.2019

ORAL ORDER:

1. Heard Mr.Rustomjee learned senior counsel for the petitioner, Mr.Vijay Patil learned counsel for respondent nos.1 to 3 and 7, Mr.Utangale learned counsel for respondent no.4 and learned Assistant Government Pleader for respondent no.5, Mr.Athavale learned counsel for respondent no.6.

2. This petition challenges an order dated 25.9.2018 passed by the Apex Grievance Redressal Committee, (for short the AGRC) whereby the petitioners application filed before the AGRC, against an order dated 22.3.2018 passed by the Competent Authority under section 13 (2) of The Maharashtra Slum Areas (Improvement, Clearance and Redevelopment,) Act,1971 (for short 'Slum Act') stands dismissed by AGRC. Respondent no.6 had made a complaint/application before the Competent Authority under section 13 (2) of the Slum Act for removal of petitioner no.1 as the Developer appointed by petitioner no.2- Ayodhya Nagri Co-operative Housing society. After hearing the parties, the competent authority passed an order dated 22.3.2018 accepting the application of respondent no.6, a society purportedly formed by another

group of slum dwellers rival to petitioner no.2-Ayodhya Nagari Co-operative Housing Society. The impugned order passed by the AGRC confirms the said order passed by the Competent Authority removing petitioner no.1 as the developer.

3. When this petition was pending adjudication, it so transpired that consequent to the orders passed by the AGRC, the Slum Rehabilitation Authority (for short, 'SRA') intended to proceed further and hold a meeting of the societies for selecting a new developer. This Court (A.K.Menon, J) in an order dated 24.10.2018 recorded a statement as made on behalf of the SRA, that the process of holding a meeting consequent to the order passed under section 13(2) of the Slum Act, has not yet commenced and no steps will be taken before the next date of hearing. In this regard, thereafter on 31.10.2018 this Court (A.K.Menon, J) passed the following order :

P.C.

“1. On behalf of the petitioners, the learned counsel seeks time to file rejoinder.

2. Rejoinder to be filed within one week from today.

3. In the meantime, Mr.Patil appearing on behalf of the respondent nos.1,2 and 7 states on instructions that the General Body Meeting of the occupants will require a notice of 14 days to be given and that the notice

expected to be issued within next 3-4 days.

4. *In view of the above, stand over to 19th November 2018.*

5. *On behalf of SRA, Mr.Patil is directed to ensure that if the notice calling for the meeting is published, the petitioners Advocate will be given notice of the same.”*

(Emphasis supplied)

4. The petition was thereafter moved on the application of the petitioner before the learned Vacation Judge on 15.11.2018, when the petitioners pointed out that the General Body meeting was called by the respondent no.1-Slum Rehabilitation Authority on 22.11.2018 and prayed that the said meeting be deferred till the petition is heard for ad interim reliefs by the regular Court on 19.11.2018. The learned Vacation Judge thought it appropriate that the matter be heard by the regular Court on 19.11.2018. Accordingly, the learned vacation Judge (R.I.Chagla, J) on 15.11.2018 passed the following order :

“ Heard the learned Senior counsel for the petitioners, the learned Counsels for the Respondent no.6, Respondent nos. 1 to 3 and Respondent no.5.

2. *The learned Senior Counsel for the Petitioners points out that a General Body Meeting has been called by the Respondent no.1 Slum Rehabilitation Authority on 22nd November 2018. He states that the 14 days notice of the General Body Meeting was to be given as recorded in the order dated 31st October 2018 of this Court, has not been given. This has been disputed by the learned Counsel appearing for Slum Rehabilitation Authority. The learned Senior Counsel for the Petitioners further states that the notice calling for the meeting was to be served upon the Petitioner's Advocate as per the said order of this Court and that this has not been complied with. He states that the meeting to be held on 22nd November 2018 ought to be deferred till the 14 days notice has expired.*

3. *The learned Counsel for the Respondent no.6 points out that the above*

Petition is on board on 19th November 2018 and such application for deferring the meeting to be held on 22nd November 2018 as well as any application for ad-interim relief in the Petition can be made to the Regular Court and hence, there is no urgency in moving the Vacation Court.

4. *I have considered the above submissions. Since this Petition is already to come up on 19th November 2018, i.e. prior to 22nd November 2018 on which date the meeting is to be held by the Slum Rehabilitation Authority, it would be appropriate for the Petitioners to make such an application for deferring the meeting as well as any application for ad-interim relief before the Regular Court. An anxiety has been expressed by the learned Senior Counsel for the Petitioners that since the next date i.e. 20th November 2018 is a bank Holiday and that there is only one day between 19th November 2018 and 22nd November 2018, when the General Board Meeting is to be held, there may not be sufficient time for the Regular Court to hear the applications of the Petitioners. Considering the urgency expressed, I grant liberty to the Petitioners to mention the matter on 19th November 2018 for the Petition to be taken up on that day itself. The learned Counsel for the respective Respondents are also agreeable and shall co-operate in the mentioning. Hence, no urgent ad-interim relief is required to be passed today.*

5. *The learned Counsels representing the respective Respondents are present and hence, no further notice is necessary for mentioning the matter on 19th November 2018."*

5. Thereafter, the petition was moved before this Court on 19.11.2018 when the petitioners contended that the general body meeting was required to be stayed till the petition was heard for admission, as holding of the meeting would create further complications and would aggravate the issues. This contention of the petitioner was vehemently opposed on behalf of respondent no.6 the rival society, as also it was contended on behalf of the SRA that the general body meeting be permitted to be held which would not cause any prejudice to the petitioner. Considering these contentions the Court was of the opinion

that the steps initiated by the SRA to hold a general body meeting in accordance with its notice dated 5.11.2018, ought to proceed and the fate of the development be decided by the slum-dwellers in the proposed meeting. This Court accordingly passed the following order on 19.11.2018:

“Not on Board. Taken on Board on a praecipe as moved on behalf of the petitioners.”

2. *Heard Mr.Rustomji, learned Senior Counsel for the petitioners, Mr.Patil learned Counsel for the SRA, and Mr.Khambata. Learned Senior Counsel for respondent no.6.*

3. *The urgent application today is on the premise that the the SRA has issued a notice dated 5th November, 2018 whereby a General Body Meeting of the societies is convened on 22rd November 2018 for the following agenda :*

1. *“Deciding the name of the proposed society.*
2. *Election of the Chief Promoter of the proposed society.*
3. *Selection of the developer of the proposed society.*
4. *Selection of architect of the proposed society.”*

4. *Mr.Rustomjee learned Senior Counsel for the petitioners, submits that the said meeting is required to be stayed till the petition is heard for admission. It is submitted that holding of the meeting would create further complications and would aggravate the issues in the facts of the case. Mr.Rustomjee would contend that the impugned order passed by the Apex Grievance Redressal Committee/Respondent no.7 is patently illegal and the petitioners have good chances of succeeding in the present petition and therefore, the ad-interim relief as prayed today be granted.*

5. *On the other hand, Mr.Khambata learned Senior counsel for respondent no.6 would oppose the submission as made on behalf of the petitioners. Mr.Khambata would submit that no prejudice would be caused to the petitioners, if the meeting is held and the reservations are passed. His submission is that the petitioners are already suffering termination and whatever may happen in the meeting would obviously be subject to the further orders which will be passed in the petition.*

6. *Mr.Patil, learned Counsel for the SRA would also support the submission as made by Mr.Khambata, learned Senior Counsel for the Respondent no.6.*

7. Having heard learned Counsel for the parties and having perused the record, in my considered opinion, interest of justice would be served by the following order, which would be without prejudice to the rights and contentions of the parties:

ORDER

- i. The SRA shall conduct the meeting as scheduled.
- ii. The votes of the persons who are occupying mezzanine floor and/or who are stated to be ineligible, shall be kept separately.
- iii. Any decision taken in the meeting, shall not be implemented and/or given any effect, till the Court so orders by further orders to be passed in this petition.
- iv. None of the parties shall claim any equity on the basis of the proceedings of the meeting on any count.
- v. All contentions of the parties are expressly kept open.

8. List this petition for admission on 29th November 2018. In the meantime, parties to complete the pleadings.

Parties to act on an authenticated copy of this order.”

(Emphasis supplied)

6. As scheduled the meeting of the slum-dwellers was held on 22.11.2018. The members of the society voted on all the issues, which were part of the agenda, as noted in the order passed by this Court on 19.11.2018 (supra). The members of the society on all the counts voted in favour of the petitioner no.2 Ayodhya Nagari Co-operative Housing Society as the society to undertake development and petitioner no-1 Blue Diamond Construction Company as the Developer.

7. On the above backdrop the petition was heard by this Court

on 29.11.2018, when the Court considered the above developments. The report of the general body meeting was placed on record by the Assistant Registrar, Co-operative Housing Society (Eastern and Western Suburbs) SRA. The petitioners at this hearing contended that as the members of the society have voted in favour of the petitioner no.1 to be the developer and petitioner no.2, to be the society of the slum- dwellers, the petitioners had therefore, become entitled to undertake development of the SRA project. The petitioners contended that in view of these changed circumstances, the impugned order passed by the competent authority under section 13 (2) of the Slum Act, had lost its efficacy and would not hold good. This submission was nevertheless, without prejudice to the rights and contentions of the petitioners to contend that the impugned order passed by the AGRC was illegal and deserved to be quashed and set aside even on merits. The Court also considered that the SRA did not dispute the collective will and mandate of the slum-dwellers, and in the peculiar facts and circumstances of the case, the SRA should take instructions on the petitioners' contentions. This Court accordingly passed the following order :

“ On 19.11.2018 on the premise that the SRA had issued a notice on 5.11.2018 for a General Body Meeting of the society on 22.11.2018 the court considered the submissions as made on behalf of the parties and had passed the following order :

- i) *“The SRA shall conduct the meeting as scheduled.*
 - ii) *The votes of the persons who are occupying mezzanine floor and/or who are stated to be ineligible, shall be kept separately.*
 - iii) *Any decision taken in the meeting shall not be implemented and/or given any effect till the Court so orders by further orders to be passed in this petition.*
 - iv. *None of the parties shall claim any equity on the basis of the proceedings of the meeting on any count.*
 - v. *All contentions of the parties are expressly kept open.*
8. *List this petition for admission on 29.11.2018. In the meantime, parties to complete the pleadings.*

2. *Mr.Rustomjee learned senior counsel for the petitioner and Mr.Patil learned counsel for the SRA have submitted that accordingly a meeting of the society was held on 22.11.2018. The members of the society have voted on all the issues which were part of the agenda namely name of proposed society, Chief Promoter and Developers and Architect. On all these counts, the members of the society have voted in favour of petitioner no.2 Ayodhya Nagari Shree Ram Mandir Co-operative Housing Society (Proposed), the petitioner no.1 M/s Blue Diamond Construction Company as the developer.*

3. *An affidavit of Mr.Shripati Ramjit Yadav is also placed on record on behalf of the petitioners by pointing out the outcome of the proceedings of the said meeting. Mr.Patil learned counsel for the SRA has also placed on record a report dated 28.11.2018 of the Assistant Registrar, Co-operative society (Eastern and Western Suburbs), SRTA recording the proceedings of the General Body meeting of the society. The report is marked 'X' for identification.*

4. *Mr.Rustomjee learned senior counsel for the petitioner submitted that now, as the members of the societies have voted in favour of the petitioner no.1 and petitioner no.2, it is clear that the petitioner no.1 would be now entitled to undertake the development of the SRA project. It is submitted that the impugned order passed by SRA under section 13 (2) of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 therefore cannot hold good. It is submitted that this is without prejudice to the rights and contentions and that even otherwise, the impugned orders deserve to be quashed and set aside on the merits of the matter.*

5. *Thus the contention of Mr.Rustomjee learned senior counsel for the petitioner is that in view of the changed circumstances and considering the will and mandate of the slum dwellers, as seen from the voting pattern, as recorded by the*

Assistant Registrar Co-operative Societies SRA the proposal of the petitioners qua the project needs to be revived and the petitioners ought to be permitted to proceed with the SRA project.

6. *Mr.Patil learned counsel appearing for the SRA while not disputing the will and mandate of the slum dwellers states that he would take instructions on this issue, the facts being quite peculiar. He therefore, seeks time to take instructions in this regard.*

7. *Accordingly, hearing of this petition is adjourned to 6.12.2018.*

8. *However, considering the changed circumstances, it would be in the interest of justice that the SRA is directed not to act upon the impugned decision as taken against the petitioners under section 13 (2) of the Act.*

9. *Needless to observe that all contentions of the parties on the merits of the matter are expressly kept open.*

10. *The Court on the adjourned date of hearing would also consider passing further orders in terms of sub-clause 7 (iii) of the order dated 19.11.2018.*

Stand over to 6.12.2018.

All concerned to act on an authenticated copy of the order.

8. Thereafter, on 20.12.2018 while adjourning the hearing of this petition to 15.1.2018, this Court passed the following order :

“ *The respondents to file reply affidavit to the amended petition well in advance before the adjourned date of hearing. Let this petition be listed for admission on 15 January 2019.*

2. *Mr.Patil learned Counsel for SRA states that as the General body has now chosen the petitioner to be the developer of the project, his instructions are that qua the development in question, the petitioner's proposal would be considered as a fresh proposal and would be processed in accordance with law.*

3. *Mr.Rustomji, learned Senior Counsel for the petitioners has an objection this statement as made by Mr.Patil, in regard to the proposal being afresh proposal.*

4. *Let this petition be listed for admission on 15 January 2019.”
(Emphasis supplied)*

9. Thereafter, when this petition was heard on 15.1.2019, on behalf of the SRA, an affidavit of Mr.Kalyan Pangare Deputy Collector, (SRA) was placed on record whereby it was contended on behalf of the SRA, that even in the changed circumstances when the petitioner no.1 is appointed as a developer, a fresh proposal would be required to be submitted by petitioner no.1, and the earlier proposal/scheme would not be of any avail. The affidavit stated that the SRA will be required to re-examine the petitioner no.1's scheme to consider whether it was viable and feasible in all aspects and thus, no order be passed to allow the earlier scheme of the petitioner no.1 to proceed. The Court thus intended to examine as to whether at any earlier point of time, before orders were passed by the competent authority under section 13 (2) of the Slum Act, the SRA had held that the scheme/proposal of the petitioner no.1, had ceased to be viable or feasible on any aspect. This was not clear from the said affidavit of Mr.Kalyan Pangare Deputy Collector (SRA). The Court thus on a consideration that, if the earlier proposal/scheme of the petitioner no.1 was not held non-viable by the SRA, then only because an order under section 13 (2) was passed against the petitioner no.1, can it at all be said to be reasonable and valid for the SRA to contend that the SRA would not process, the already pending proposal as submitted on behalf

of the petitioner no.1 and the petitioner no.2 society , passed the following order:

“On the background of earlier orders passed in this petition, today Mr.Patil, learned Counsel for the SRA, has placed on record an affidavit of Mr.Kalyan Pandhare, Deputy Collector, SRA.

2. *The short affidavit states that the decision taken by the Deputy District Collector under Section 13(2) of the Slum Act to change the petitioner No.1 as a developer came to be confirmed by the Apex Grievance Redressal Committee by the impugned order dated 25 September 2018 and that the earlier scheme as submitted by petitioner No.1 would not be of any avail. It is stated that although in the intervening period, after the order of the Apex Grievance Redressal Committee, in the meeting of the societies held on 22 September 2018 the majority of the slum dwellers have preferred to appoint petitioner No.1 as the developer, this would not be a ground for reversing the finding of facts recorded by the two authorities removing petitioner No.1 as the developer. It is stated that the petitioners' contention that the petitioner No.1 be permitted to continue the project from the stage it came to halt on account of the impugned orders, cannot be accepted and that it would be incumbent on the part of the petitioners to submit a new scheme for continuation of the previous scheme, like any other newly appointed developer and the SRA will have to in that case re-examine the scheme to test whether the same is viable and feasible in all respects and thus, no order be passed directing the SRA to allow the earlier scheme of petitioner No.1 to go ahead with the previous permissions. It is stated that the new scheme would be required to be re-examined in the light of all regulatory and other changes which have occurred after submission of the previous scheme.*

3. *In my opinion, considering the affidavit of the SRA which contains only one paragraph, the SRA will have to make a further clarificatory affidavit. Once deponent of the affidavit has stated that the SRA has to re-examine the proposed scheme which is called upon to be submitted by the petitioners to test whether the same is viable and feasible in all respects including for compliance of any new regulatory and other changes/compliances, then in my opinion, the SRA will have to point out that as to whether previously at any point of time, the SRA on examination of the earlier scheme as submitted by the petitioner No.1 had come to a conclusion that the same was not viable and feasible in any respect or was not complying with any of the requirements under the rules and as to whether any such decision was communicated to the petitioners.*

4. *This aspect definitely is an independent aspect which is de'hors the controversy which arose in the proceedings before the authorities below, which strictly fell under Section 13(2) of the Slum Act. The SRA will also have to clarify as to what would be the prejudice to the slum dwellers if the earlier*

scheme/proposal is continued and the further compliances which may be required from petitioner No.1 and on what ground the earlier scheme as submitted by the petitioner has become redundant.

5. Unless all these issues are clarified by the SRA by a proper affidavit, surely the contentions as urged in the affidavit of the SRA tendered today would remain vague and cannot be accepted at the face value as they stand. Needless to observe that any further insistence on the part of the SRA to call upon the petitioners to submit any further compliances necessarily has to be one of the requirement of the act and the rules, which needs to be clearly brought about and cannot be kept vague and ambiguous as seen in paragraph 1 of the affidavit by Mr.Kalyan Pandhare, Deputy Collector, SRA, tendered today.

6. It is a peculiar situation in the present case that some of the slum dwellers wanted removal of petitioner No.1 and have now reappointed the petitioner No.1 as the developer. Mr.Patil would not dispute that so far no other reason has come on record for removal of petitioner No.1. If that be so, any fresh exercise to call upon the petitioner to submit a new scheme would further delay the redevelopment project causing prejudice to the slum dwellers which cannot be the intention of the Act and the Rules.

7. The SRA in a given situation will have to take a pragmatic view of the matter and surely in the interest of the slum dwellers.

8. In view of the above observations, further affidavit be placed on record on behalf of the SRA. Affidavit be filed by 28 January 2019 with an advance copy to be served on all the parties.

9. List this petition on 31 January 2019.”

(emphasis supplied)

10. In pursuance of the above order, on behalf of the SRA, an affidavit of Mr.Padmakar Rokade Deputy Collector-SRA dated 24.11.2019, is placed on record. This affidavit *inter alia* states that the proposal/scheme was submitted by the petitioner no.1 in the year 2009 and the same was accepted for the purpose of further process as per the

Development Control Regulations, 1991. It is stated that however, after submission of the scheme, the developer petitioner no.1 had not taken any steps and Annexure II was not obtained by the developer-petitioner no.1. It is stated that there is a Government Resolution dated 16.5.2015 whereby the norms of eligibility of slum-dwellers, are now prescribed and have undergone a change. It is stated that according to the said Government Resolution, Annexure II would be required to be obtained by the petitioners meeting of all the present norms. As regards the directions of the Court as contained in the order dated 15.1.2019 in regard to the viability and feasibility of the petitioner's proposal, it is stated that there was no question of issuing any communication in that regard as petitioner no.1 had not obtained any permission or no objection as required, which impliedly meant that the petitioner's 1's scheme was not rejected as non-viable. The affidavit further records that the new norms are required to be observed by petitioner no.1 and in that even if petitioner no.1 does not submit any scheme, the petitioners will have to comply the new norms to obtain the letter of intent and the petitioners will have to implement the scheme with the present norms. It is stated that it makes no difference if the petitioners continue with the old scheme and then amend the scheme as per the present day's norms or submit a new scheme which is updated

and that the time consumed would be the same. These relevant averments as made in the affidavit on behalf of the SRA are required to be noted.

“8. I say that since the Developer viz. Petitioner no.1 had not obtained any permission or NOCs, as required, there was no question of testing his technical and financial feasibility or viability. Hence there was no question of issuance of communication to that effect.

9. I say that now as per new DCR the slum dwellers are entitled to tenement of 300 sq.ft carpet. Thus instead of 269 sq.ft carpet now the obligation on the developer is to provide a tenement of 300 sq.ft carpet. This new norm has to be observed by the Petitioner. In fact the scheme as admitted by the petitioner has not progressed at all. Even if he does not submit a new scheme he will surely has to comply with all the new norms necessary to get LOI. I submit that the scheme is already delayed. However, I submit that there is no merit in the contention of the petitioner that because of the SRA stand the scheme would be delayed further. I say that as in any event the Petitioner will have to implement the scheme with present norms it makes no difference if he continues with old scheme and then keeps on amending it as per today's norms, or submits a new scheme which is up-to-date. The time consumed would be same.”

(Emphasis supplied)

11. On the above conspectus, this petition was heard today. Mr.Rustomjee learned senior counsel for the petitioners submits, that in view of the above noted developments which have taken place, after filing of this petition, which are also part of the record of the SRA, it is clear that the petitioner no.1 has now been re-elected as the developer and that the petitioner no.2 is also elected as the society at whose behest, the development would be undertaken by the petitioner no.1. Mr.Rustomjee reiterates his submission, as urged before this Court and noted in the order passed by this Court on 29.11.2018, that the impugned order dated 22.3.2018 passed by the competent authority under section 13 (2) of the

Slum Act, and as confirmed by the impugned order passed by the Assistant Registrar has lost its efficacy, in view of these developments of the petitioners being re-elected by the slum dwellers. It is submitted that in the general body meeting of the societies dated 22.11.2018 was held by the SRA and as permitted by this Court, in which all the members/slum dwellers participated and on all the counts on which voting was required to be made, mandate was cast in favour of the petitioner no.2 society to undertake slum redevelopment and petitioner no.1 to be appointed as a developer.

12. Mr.Rustomjee would submit that even assuming that the order passed by the competent authority was under section 13 (2) of the Act was to subsist, the further course which was available to the societies and the SRA was, to hold a fresh general body meeting to ascertain the will and mandate of the slum- dwellers to appoint a new developer which has now happened and resulted in favour of the petitioners. It is Mr.Rustomjee's submission that there was no embargo, whatsoever either in law or otherwise for the societies to vote in favour of a new developer and it is the petitioner no.1, and petitioner no.2 who have accordingly been re-elected by a majority of the slum dwellers. Mr.Rustomjee, would

therefore, submit that the adjudication of this petition, on the impugned orders as passed by the competent authority under section 13 (2), as confirmed by the AGRC would amount to an unwarranted and unnecessary exercise and of no consequence, in the peculiar facts and circumstances of the case. Mr.Rustomjee accordingly submits, that the petition needs to be disposed of by permitting the petitioner no.1 Developer and petitioner no.2 society to proceed on the re-development proposal/scheme which was already submitted, and which was to be further processed for a letter of intent to be issued for further development.

13. On the other hand, Mr.Vijay Patil learned counsel for the SRA while not disputing the developments which have taken place after filing of this petition, would refer to the affidavits as filed by the SRA to contend that the stand of the SRA is quite clear and that in any event, the petitioners would be required to apply the amended norms, rules, and requirements thereunder, and accordingly, process the proposal/scheme.

14. Mr.Athavale learned counsel for the respondent no.6 while not disputing the developments which have taken place during the

pendency of this petition that the petitioners again were re-elected by the slum dwellers to undertake development, would however submit that nonetheless, the petition be heard on merits. Mr.Athavale would not dispute that, if respondent no.6 in any manner is aggrieved with the decisions, taken by the slum dwellers in the meeting held on 22.11.2018, the respondent no.6 would have a remedy to adopt appropriate proceedings.

15. Having heard learned counsel for the parties and having perused the record, at the outset it may be observed that the facts of the case are quite peculiar. There is much substance in the contention as urged on behalf of the petitioners that the order dated 22.3.2018 as passed by the competent authority removing the petitioner no.1 as a developer, would lose its efficacy in view of the subsequent developments of the petitioner no.1 being selected as a developer and petitioner no.2 being elected to undertake the re-development by a majority mandate in the General Body meeting held on 22.11.2018, as conducted by the SRA.

16. The contention so urged on behalf of the petitioners is required to be accepted for the reason that even assuming the order

passed under section 13 (2) of the Act removing the petitioner no.1 as the developer was to remain in operation, it was open to the slum-dwellers to appoint any developer of their choice. In the present case, the slum-dwellers have re-voted in favour of the petitioners. It is significant and also as recorded in the order dated 19.11.2018 passed by this Court that the petitioners in fact opposed holding of the general body meeting by the SRA on 22.11.2018, and respondent no.6 insisted that the general body meeting should take place as scheduled to be held by the SRA, so that the slum-dwellers would vote on the various issues *interalia* to decide the name of the proposed society, selection of the developer of the proposed society and selection of an Architect of the proposed society. Accordingly the general body meeting was held on 22.11.2018 on a clear consensus and willingness on the part of respondent no.6 society. Now, that as a result of the said general body meeting is against respondent no.6, it would not be open to respondent no.6 to contend, that nonetheless, there should be adjudication of the petition on merits. This in the facts of the case would be wholly academic, and unwarranted in the peculiar facts of the case, as even assuming that the petition was not to succeed and was to be dismissed the only course for the SRA was to hold a fresh general body meeting and re-invite the mandate of the slum

-dwellers which has already taken place after the petition was filed resulting into re-election of the petitioners.

17. The stand of the SRA as reflected in the affidavit as placed on record, does not indicate that for any reason the pending proposal of petitioner no.1 was held to be not feasible or non-viable on any technical reason. The SRA has clearly stated that the petitioners would be required to comply with all the present requirements of rules, regulations and norms as contained in the Government Resolutions, on which Mr.Rustomjee learned senior counsel on instructions, submits that his clients are willing to comply with all the requirements as prescribed by the rules, regulations and norms which are in vogue and that the petitioner's proposal would be processed in compliance of these requirements. If this be the case, then in my opinion, there would be no prejudice whatsoever to the other slum dwellers or any technical impediment for the authorities, to process the pending proposal as submitted by the petitioner no.1 by complying with all the legal requirements and norms as noted above.

18. In view of the above discussion, I propose to dispose of this petition by the following order :

ORDER

(i) In view of the annual general body meeting body of the societies as held by the SRA on 22.11.2018, the impugned order dated 22.3.2018 as passed by the competent authority under section 13 (2) of the Slum Act and as confirmed by order dated 25.9.2018 passed by the Apex Grievance Redressal Committee is rendered inconsequential, as the petitioner no.2 is re-elected as the society of the slum-dwellers, and the petitioner no.1 is elected as the developer to undertake the re-development in question.

(ii) The pending proposal as submitted by the petitioners for undertaking the slum scheme shall be further processed by the Slum Rehabilitation Authority and the MHADA, subject to the petitioners complying with all the new norms, rules and regulations as applicable;

(iii) The rights and contentions of the respondent no.6 to resort to an appropriate remedy in case the respondent no.6 is aggrieved by the outcome of the general body meeting dated 22.11.2018 is expressly open. This would be of course, be subject to the objections of the petitioners to question whether the respondent no.6 is at all a society of the slum-dwellers and has any locus. All contentions of the parties in that regard are expressly kept open.

(iv) At this stage, Mr. Athavale learned counsel for the respondent no.6 on instructions, submits that his client has no

objection for the petitioners to undertake the redevelopment, however, it should be now taken expeditiously and without any further delay. In that case the approach of Mr.Athavale is fair. The petitioners are directed to take all appropriate steps by complying with all the requirements. In that event, the SRA and the MHADA shall take appropriate decisions on the proposal, of the petitioners within a period of six weeks from the petitioners submitting all the compliances. The petitioners shall endeavour to comply with all the requirements, in regard to the pending proposal within a period of three months from today.

(v) It would be appropriate that the petitioners and the respondents, take all the necessary steps compliances, in regard to the pending proposal, and if so done, the respondent nos.1 to 5 shall process the petitioners proposal for issuance of Annexure II and Annexure III and thereafter issue a letter of intent on or before 31.10.2019 and in any case before 31.12.2019.

(vi) Mr.Rustomjee learned senior counsel for the petitioners makes a statement that after issuance of the commencement certificate, the petitioner no.1 shall complete the rehabilitation buildings within a period of 3½ years. Statement is accepted.

(vii) Needless to observe that if any procedure for processing the petitioner's proposal could be taken up simultaneously, by the authorities, the same shall be so undertaken, so that any further

delay is avoided.

(viii) This order is passed in the peculiar facts of the case and shall not be treated as a precedent.

19. Petition is disposed of in above terms. No costs.

(G.S.KULKARNI, J)