

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

**WRIT PETITION (L) NO.3559 OF 2018
ALONG WITH
CHAMBER SUMMONS NO.86 OF 2019**

Bandra Ahinsa Nagar Co-operative
Housing Society Ltd

And Others

... Petitioners

Versus

Chief Executive Officer, SRA

And Others

... Respondents

.....

Mr. Mayur Khandeparkar a/w Mr. Arun Panickar and Mr. Mangesh Sawant
for the Petitioners.

Ms. Vrushali Maindad I/b Mr. Abhijeet A. Desai for Respondent No.1.

Mr. Cherag Balsara a/w Mr. Yogesh Patil, Mr. Nirav Shah and Mr. Aakash
Kothari I/b Little & Co. for Respondent No.3.

Mr. Vijay D. Patil for Respondent No.4.

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CORAM : S.C. GUPTE, J.

DATE : 15 APRIL 2019

P. C. :

. This writ petition challenges an order passed by the Apex Grievance Redressal Committee ("AGRC"), refusing to interfere with an order passed by CEO, SRA under Section 13(2) of Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 ("Slum Act").

2 The original order of CEO, SRA under Section 13(2) of the Slum Act was in pursuance of a show cause notice issued to Respondent No.3 developer concerning cancellation of an LoI issued to him for implementation of a slum rehabilitation scheme. The LoI in favour of

Respondent No.3 was challenged by the first Petitioner, who is a society of slum dwellers, concerned in the scheme on two grounds. Firstly, it was submitted that the first Respondent society, who was a lessee in respect of the subject plot, was proposing to develop it under Regulation 33(5) of DCR, 1991. Whilst, the second ground was regarding an inordinate delay on the part of Respondent No.3 in implementing the project. It was submitted that the original development agreement with Respondent No.3 was of 11 April 1994, whilst Annexure II was issued on 14 January 1998. It was submitted that the LoI was issued by CEO, SRA in favour of Respondent No.3 on 30 July 2002 (revised on 27 December 2010). It was submitted that at that stage, considering the earlier relevant date, out of 240 slum dwellers occupying the structures in the subject land 220 were held to be eligible under Annexure II issued on 14 January 1998. It was submitted that there were 31 structures in the property and besides the demolition of these 31 structures, there was no step taken by Respondent No.3 in the matter of the subject SRA scheme. CEO, SRA, by his order under Section 13(2) of the Slum Act, recorded the Petitioners' submissions on both these issues. He, however, proceeded to decide the matter of cancellation of LoI under Section 13(2) only on the ground that the scheme proposed by the first Petitioner society under Regulation 33(5) of DCR, 1991, was not tenable, since MHADA had refused to grant its NOC for the same. When the matter was carried by the Petitioners before AGRC, it also mainly decided the application on the ground of tenability of the Petitioners' scheme under Regulation 33(5) of DCR, 1991. It did not consider the Petitioners' argument of cancellation of LoI in favour of Respondent No.3 on the ground of inordinate delay caused by the latter in implementing the scheme. Since this was one of the fundamental issues

involved in the application and was not considered by AGRC, it is in the interest of justice that the impugned order of AGRC be quashed and set aside and the application remanded to AGRC for a fresh hearing in accordance with law. Learned Counsel for Respondent No.3 has no objection of this being done.

3 In the premises, the impugned order of AGRC dated 12 October 2018 is quashed and set aside and Application No.42 (L) of 2017 is remanded to AGRC for a fresh hearing in accordance with law. It is, however, made clear that the hearing before AGRC shall now pertain only to the limited issue of delay in Respondent No.3 implementing the SRA project under the LoI issued to him. On other issues, the impugned order of AGRC shall be treated as final. Pending the hearing and final disposal of the application before AGRC, *status quo* shall be maintained at site as of today. In case, any order/s is/are already passed under Sections 33 and 38 of the Slum Act, actual eviction shall not be proceeded with in pursuance of such order/s. AGRC shall hear the parties and decide the application as expeditiously as possible and preferably within a period of four months. Either party shall be at liberty to mention the matter before Secretary, AGRC, on **22 April 2019** at 11.00 a.m. on the authenticated copy of this order, when a schedule of hearings may be fixed.

4 In view of the disposal of the petition, the chamber summons does not survive, and the same is also disposed of.

(S.C. GUPTE, J.)