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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (St.) No. 2417 OF 2020

Digambar Rajaram Rane ... Petitioner
Vs.
The State of Maharashtra & Ors. ... Respondents

Mr. Vinod P. Sangvikar a/w Yogesh Morbale, for the Petitioner.

Mr. S. D. Rayrikar, AGP for Respondent No. 1.

Mr. Pramod Patil a/w Shyamsundar Solanke, Kamal Mestry i/b PNP & Associates, for Respondent No. 5.

Mr. Ayan Srivastava a/w Viren Mandhle i/b Wadia Ghandy & Co. for Respondent No. 6.

CORAM : C. V. BHADANG, J.

DATE : FEBRUARY 27, 2020

PC :

1. The challenge in this petition is to the order dated 16th October, 2019 and 8th January, 2020 passed by Respondent No. 4 and an order dated 14th October, 2016 passed by Respondent No. 3. The Petitioner is principally aggrieved by the impugned order, thereby excluding building No. 19A of Samta Nagar, Kandivali (East) from getting the benefits of temporary / permanent accommodation.

2. The aforesaid building No. 19A has 41 residential units, in addition to 14 shops. On 14th October, 2016, there was a hearing, conducted before the Vice President and the Chief Executive Officer of MHADA, in which the sixth respondent, who is now undertaking the

redevelopment alongwith the representatives of the fifth respondent – Samta Nagar Co-op. Housing Society Ltd. were present. In the said meeting, it was decided that such of the allottees / occupants, who have duly purchased and obtained possession of the residential units and shops prior to 7th January, 2007 shall be accommodated in the redevelopment scheme. This was in the face of the fact that the earlier developer, viz. M/s. Truly Creative Developers Pvt. Ltd. (Respondent No. 5) had constructed the said building No. 19A without obtaining the certificate of residence or a no objection certificate (NOC) from MHADA and thus, the said building was totally unauthorised. The minutes of the meeting dated 14th October, 2016 are subject matter of challenge in this petition. It is necessary to note that the said minutes are recorded way back in October, 2016 and have been sought to be challenged for the first time at the fag end of 2019. A perusal of the impugned order dated 8th January, 2020 passed by the fourth respondent would make it clear that as per the decision dated 14th October, 2016 benefit of the redevelopment was to be extended to the occupants of the unauthorised building, as mentioned in Schedule B, excluding occupants of building No. 19A. Although the purchase agreements in respect of 14 shop premises are prior to 2007, the fourth respondent has found that the possession was obtained in the year 2015 without obtaining occupation certificate from the Municipal

Corporation of Greater Mumbai (MCGM). The Petitioner has failed to produce any document to show that he has duly obtained possession of the shop prior to 7th January, 2007.

3. Even during the course of arguments at bar, it is not pointed out that there is any documentary evidence to show that possession has been duly and authorisedly obtained prior to 7th January, 2007. The building No. 19A has been found to be constructed by the erstwhile developer without obtaining NOC of MHADA and the erstwhile developer has sold out the tenements as well as commercial units, viz. the shops, therefore, no relief can be granted in respect of such occupants.

4. I have carefully gone through the impugned orders passed and I do not find that they suffer from any infirmity so as to call for interference of this Court. The petition is without merits, and is accordingly dismissed, with no order as to costs.

Vinayak
P.
Halemath

Digitally signed
by Vinayak P.
Halemath
Date:
2020.03.04
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Sd/-
C. V. BHADANG, J.