

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.893 OF 2020

Shivaji Nagar SRA CHS (Proposed) And Anr. ...Petitioners

vs.

New Shivaji Nagar Ekta Rahiwasi Seva
Sangh (Proposed) and Others. ...Respondents

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Mr. Prasad Dhakephalkar, Senior Advocate, i/b. Mr. Manoj Kumar Upadhyay, for the Petitioners.

Mr. Ashish Kamat, i/b. Mr. Haresh Lulia, for Respondent No.1.

Mr. S.G. Surana, i/b. Mr. Madhur S. Surana, for Respondent No.2.

Mr. Vijay D. Patil, for Respondent No.3-SRA.

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CORAM : S.C. GUPTE, J.

DATE : 16 DECEMBER 2020

PC. :

. Heard learned Counsel for the parties.

2. This writ petition challenges an order passed by Apex Grievance Redressal Committee ("AGRC") in respect of a slum redevelopment proposal. Petitioner No.1 is a proposed Co-operative Society of slum dwellers, who claims to have appointed Petitioner No.2 - Developer for executing their slum redevelopment proposal. It is submitted by the Petitioners that originally a general body of the proposed society of slum dwellers (about 932 of them) had, in a meeting held on 8 October 2016, elected 19 committee members of the managing committee of the

proposed society and also passed a resolution appointing Petitioner No.2 as a developer of the project. It is submitted that no redevelopment proposal was submitted in pursuance of this general body meeting due to certain planning constraints. Finally, after about 13 November 2018, when the new development plan came into force, the proposal could be submitted by the society and its developer. It is submitted that on 7 June 2019, Petitioner No.1 made an application to Slum Redevelopment Authority ("SRA") for allowing them to hold a meeting of the general body of slum dwellers for appointment of a developer for the project. It is submitted that SRA granted its approval for holding a meeting on 30 June 2019. This approval came on 16 June 2019. It is submitted that, in the meanwhile, Respondent No.1, who is a rival society of slum dwellers from the same land, also applied for permission for holding a meeting of general body of slum dwellers on 23 June 2019. It is submitted that on 20 June 2019, permission was granted to Respondent No.1 to hold this meeting. It is submitted that on 27 June 2019, the Petitioners submitted their slum redevelopment proposal to SRA. The proposal was accepted for pre-scrutiny by CEO, SRA and, after finding the same proper after such pre-scrutiny, the same was accepted for a regular scrutiny. It is submitted that this order of CEO, SRA was challenged in appeal before AGRC by Respondent No.1 and Respondent No.2, who was the rival developer appointed by Respondent No.1 for execution of the project. AGRC, by its impugned order dated 10 January 2020, allowed the Respondents' appeal and set aside the impugned order of CEO, SRA. The main ground on which the impugned order accepting the Petitioners' proposal for scrutiny was set aside was that the same was submitted by Petitioner No.2 as a developer without the general body of Petitioner No.1 society having appointed the former as a developer; the meeting for such appointment was to be held on

30 June 2019, that is to say, after submission of the proposal. By the impugned order, the AGRC directed CEO, SRA to record the proposal submitted by Petitioner No.2 on behalf of Petitioner No.1 Society and process instead the proposal submitted by Respondent No.2-Developer on behalf of Respondent No.1 - Society (Proposed). This order is the subject matter of challenge in the present petition.

3. Mr. Dhakephalkar, learned Senior Counsel appearing for the Petitioners, makes three submissions. Firstly, it is submitted that the proposal of the Petitioners, which was accepted for scrutiny by CEO, SRA, was not based merely on the subsequent general body meeting of slum dwellers held by Petitioner No.1 on 30 June 2019. Learned Counsel submits that there was an AGM held earlier, i.e. on 8 October 2016, where, as noted above, committee members were appointed and Petitioner No.2-Developer was appointed as a developer for the redevelopment project. Learner Counsel submits that there is no consideration of this AGM in the impugned order of AGRC, though the resolution of 8 October 2016 is referred to in the submissions made by the parties. Learned Counsel, secondly, submits that in any event, there was a reiteration of the original resolution passed on 8 October 2016 in the freshly convened AGM of Petitioner No.2 Society on 30 June 2019, where more than 50% of slum dwellers duly appointed Petitioner No.2 as the developer of the project. Thirdly, it is submitted that the impugned order of AGRC is based on alleged report of Assistant Registrar SRA concerning the rival meetings of the parties. It is submitted that even in this report, the Assistant Registrar appears to have overlooked the fact that Petitioner No.2-Developer was appointed as far back as on 8 October 2016, despite the Petitioners having submitted documents in that behalf.

4. None of the submissions made by Mr. Dhakephalkar has any merit. The decision to appoint Petitioner No.2 as a developer of the project in the AGM of 8 October 2016 was obviously not acted upon by the parties for about more than 2½ years. It is not in dispute that there is a circular issued by slum redevelopment authority as of 2 April 2009 conveying the office order of 13 October 2006, which contains guidelines for acceptance, scrutiny and grant of permission for slum rehabilitation schemes. These guidelines forbid acceptance of any new proposal, which is not accompanied by a general body resolution adopted within the preceding six months by the proposed slum dwellers co-operative society. It is apparent that in view of this very circular, the Petitioners had applied for permission to hold a fresh meeting for appointment of developer by their application of 7 June 2019. This approval was granted on 16 June 2019. The meeting of general body of slum dwellers was to be held by the Petitioners, in pursuance of this approval, on 30 June 2019. Even before this meeting could be held, the Petitioners appear to have approached CEO, SRA with their redevelopment proposal. The reason for this out of turn approach is quite obvious. On 19 June 2019, Respondent No.1, which is a rival society of slum dwellers of the same land, approached SRA for permission to hold a meeting on 23 June 2019. This permission was granted on 20 June 2019, and the meeting of Respondent No.1 held on 23 June 2019 did yield, according to them, a resolution of over 50% of slum dwellers appointing Respondent No.2 as the developer of the project. It is clearly with a view to pre-empt any proposal by Respondent No.2 on behalf of the rival society that the Petitioners appear to have approached CEO, SRA with a premature redevelopment proposal on 27 June 2019; it was clearly prior to the meeting proposed by themselves for appointment of a developer. Without

the general body of the proposed society of slum dwellers having appointed them as a developer, obviously, Petitioner No.2 could not have submitted any redevelopment proposal to CEO, SRA in their capacity as a developer for and on behalf of Petitioner No.1 Society.

5. There is, accordingly, no infirmity in the impugned order passed by AGRC. All three submissions of Mr. Dhakephalkar, referred to above, are premised on the AGM of 8 October 2016, which, as we have noted above, was given a go-bye by Mr. Dhakephalkar's clients themselves and, at any rate, no redevelopment proposal could have been entertained by CEO, SRA on the basis of a meeting, which was held more than 2½ years prior to the date of the proposal, having regard to the SRA Circular, referred to above.

6. There is, accordingly, no merit in the petition. The petition is dismissed.

7. It is clarified that whilst passing this order, this Court has not applied its mind to the proposal of redevelopment submitted by Respondent No.2 for and on behalf of Respondent No.1 Society. All rights and contentions of the parties in that behalf are kept open for the parties to agitate them before an appropriate forum.

8. This order will be digitally signed by the Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

(S.C. GUPTE, J.)