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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3334 OF 2022

Mangesh Murlidhar Mungekar (Eligible) & Ors ...Petitioners

Versus

State of Maharashtra & Ors ...Respondents

Ms Archana P Gaikwad, *for the Petitioners.*

Mrs Uma Palsuledesai, AGP, *for Respondents Nos.2 & 3-SRA.*

Mr Zain Mookhi, *with Himanshu Agrawal, i/b BELLATOR Legal Service, for Respondent No.3.*

Ms Ashwini Jadhav, *with Jagdish G Aradwad(Reddy), for Respondent No.6-AGRC.*

Mr Anukul Seth, *for Respondent No.8-Society.*

**CORAM G.S. Patel &
Madhav J. Jamdar, JJ.**

DATED: 24th March 2022

PC:-

1. The Petition is completely misconceived.
2. The challenge is Letters of Intent dated 2nd May 2013, 4th March 2016 and 5th January 2022 all issued in favour of the 7th Respondent developer on a Slum Rehabilitation Scheme duly sanctioned at Village Mogra, Mahakali Road, Andheri (East).
3. There is no challenge to the notification of the area as a slum under Section 4(1) of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971.

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4. The only ground for challenge to the LOIs is that there has been no progress. This is not a ground to invalidate the LOI.

5. There is also the question of delay and laches because the first LOI is of 20th May 2014.

6. An equally serious problem is the locus of the Petitioners. Of the 22 Petitioners, as part of the slum rehabilitation scheme pursuant to the LOI, only 17 or perhaps 18 have been found eligible and are entitled to transit rent and permanent alternate accommodation. One is ineligible and three are cases yet to be decided. Muddling all these distinct causes of action into one benefits nobody. It undermines the standing of all and of each. A challenge to the LOI will result in all eligible persons losing all rights, benefits and entitlements including the right to rehabilitation in permanent alternate accommodation and the right to transit rent in the meantime. The ineligible person is certainly not entitled any of this and cannot join hands with the eligible persons.

7. Questions of delay and locus apart, there is an inherent inequity in this Petition. What is not disclosed is that these 22 persons are not the only ones in the SR scheme. The SR scheme involves a total of 156 eligible slum dwellers (out of a total of 283 slum dwellers). These 22 Petitioners cannot throw into jeopardy the social and financial interest of the other eligible slum dwellers involved in this project. The Society is a party, as Respondent No.8. It opposes the Petition. This means that the other eligible persons oppose the Petitioners. Therefore, if the Petitioners want the LOIs

to be set aside, they must be prepared to offer security for the inevitable loss and prejudice that is going to be caused to the other eligible slum dwellers. The Petitioners can offer no security.

8. Equally inequitable and unsustainable in law is the fact that the Petitioners, though members of the society, are attempting to raise disputes contrary to the decision of the majority of the general body of the 8th Respondent society. Cooperative law does not permit this. The Petitioners are bound by decisions of the majority. That law is well-settled for many decades. If there is a dispute between a member and a society, the statute provides for an alternate remedy; a Writ Petition will not be entertained. Importantly, the decisions of the 8th Respondent society to appoint the developer and to execute the development agreement with it are not assailed.

9. A fundamental misconception in this, as in many other Petitions, is that these Petitioners have some sort of adjudicated interest or title to the land beneath their structures. They are not owners. They are not licensees. They are not lessees. They are trespassers on public lands. Their rights to re-accommodation are recognised by statute, i.e. the Slum Rehabilitation Act. The purpose of the Act, and this is its avowed public purpose, is to improve the living conditions of the people in that area. The policy of creating free housing in situ has recently come in for some criticism. But that question apart and even leaving aside the aspect that eligible slum dwellers get free ownership residential apartments or commercial units on land on which they are encroachers, the question still

remains as to how these Petitioners can claim legal entitlements sufficient to justify an order directing the revocation of the Letters of Intent.

10. We find no substance in the Petition.

11. It goes without saying that despite this order, those of the Petitioners who are eligible will be entitled to all the benefits under SR scheme on the same basis as other eligible persons. They will not get any preferential treatment. They will be entitled to transit rent (provided they are not in transit accommodation), the execution and registration of permanent alternate accommodation agreement and the allotment of rehab units the residential or commercial as per their eligibility and following the allotment policy of the SRA. There will be no discrimination against eligible Petitioners. Ineligible persons of course will not be entitled to any benefits. Where cases are yet pending decision, the representations, applications, appeals or other proceedings already filed will be decided within two months from today. If not already filed, such persons will need to file appropriate proceedings within two weeks from today.

12. The Petition is disposed of in these terms. No costs.

(Madhav J. Jamdar, J)

(G. S. Patel, J)