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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 488 OF 2024

Neelam Finance Bombay Pvt Ltd & Anr ...Petitioners
Versus
State of Maharashtra & Ors ...Respondent

WITH
INTERIM APPLICATION (L) NO. 7974 OF 2024
IN

WRIT PETITION NO. 488 OF 2024

Adarsh SRA Sahakari Gruhnirman Sanstha Ltd & Anr ...Applicants
In the matter between
Neelam Finance (Bombay) Pvt Ltd & Anr ...Petitioners
Versus
State of Maharashtra & Ors ...Respondents

WITH
WRIT PETITION NO. 1235 OF 2024

Venugopal Sitaram Garodia & Anr ...Petitioners
Versus
State of Maharashtra & Ors ...Respondents

Mr Aspi Chinoy, Senior Advocate with Mr Navroz Seervai,
Senior Advocate with Mr Sharan Jagtiani, Senior
Advocate, Aseem Naphade, Kausar Banatwala, Chirag
Sarawagi i/b Tushar Goradia, for the Petitioners.

Mr Suraj Guran, with Jayashri Mane, Surbhi Agrawal, for the Applicants in IA(L)/7974/2024.

Dr Birendra Saraf, Advocate General with Mr Abhay L Patki, Addl GP, for the Respondent-State in WP/488/2024.

Ms Jaymala Ostwal, Addl GP, for the Respondent-State in WP/1235/2024.

Mr Janak Dwarkadas, Senior Advocate, with Jagdish Aradwad (Reddy), for Respondents Nos 5 & 6-SRA in WP/1235/2024.

Dr Milind Sathe, Senior Advocate, with Jagdish Aradwad (Reddy), for Respondent No 2-SRA in WP/488/2024.

Mr Ravi Kadam, Senior Advocate, with Rohan Kadam, Chirag Shah, Utsav Trivedi, Ekta Dalvi, Shyamsundar Jadhav, for Respondent No 3-MMRDA.

Mr TN Subramanian, Senior Advocate, with Priya Ranade, Rubin Vakil, Tanvi Gandhi, Nupur Desai i/b Markand Gandhi & Co, for the Petitioners in WP/1235/2024 & Respondent Nos 3 & 4 in WP/488/2024.

Ms Shilpa Redkar, with Sagar Patil, for Respondent No 7-BMC.

**CORAM G.S. Patel &
 Kamal Khata, JJ.**
DATED: 12th March 2024

PC:-

1. Heard.
2. There exists at Village Ghatkopar in Taluka Kurla, a large tract of land having CTS No 195(part). The location of the project is perhaps best understood from a Google Earth Map at page 99 of the Petition and a sketch tendered by Dr Sathe who appears for the Slum Rehabilitation Authority (“SRA”) in Writ Petition No 488 of 2024 (both are annexed to this order). The Petitioner in Writ Petition No 1235 of 2024 (“Garodia”) claims that he is the owner

of this entire plot. There is a development agreement with the Petitioner in Writ Petition No 488 of 2024, the developer, Neelam Finance Bombay Private Limited (“**Neelam**”).

3. As the documents show, the eastern side of the plot boundary crosses over a DP Road and a Freeway. There are Government plots on three sides, to the north-east, east and south.. The proposal by Mumbai Metropolitan Region Development Authority (“**MMRDA**”) represented by Mr Kadam is to construct the DP Road and Freeway along the western edge of this plot.

4. But that is not really Neelam’s primary worry. Paragraph 5 of the Petition tells us why Neelam has come to Court. We resist the temptation to reproduce that paragraph because the first sentence of that paragraph runs over 13 printed lines without a break and with embarrassingly little punctuation. Essentially, what Neelam wants is that none of the authorities, i.e., SRA, MMRDA, or the Government should do anything at all in regard to the slum redevelopment by Neelam on this plot.

5. That the plot in question is the property of the Garodia family is not contentious. There were of course the usual disputes about the development agreement and ultimately consent terms seem to have been filed. These have been included in the Neelam’s Petition by an amendment at page 35MM onwards. Mr Subramanian appears for the Garodias. His concern is that as owners and there not having been a conveyance of title as yet, the owners must be kept informed of whatever is being done at the project site.

6. Neelam is alarmed by three things. The first are Minutes of a Meeting at page 101. This meeting was held by MMRDA. The Minutes are dated 26th September 2023. The meeting was chaired by the MMRDA Commissioner. The entire focus of the meeting seems to have been an extension of the Eastern Freeway. Neelam was represented. The gist is set out and an earlier proposed part of the Freeway was to be substituted with an extension. Paragraph 3 of the Minutes tells us that it was desirable to explore the feasibility of the Eastern Freeway proposal along the Ramabai Nagar, that is the site in question. It notes the existence of a large number of structures affecting the alignment namely the slums. Neelam's representative said that the slum clearance could be done if permission was granted for the entire land. There were some numbers discussed in regard to Project Affected Person ("PAP") housing and slum housing. Clause 9 of the Minutes said that for the road construction, Neelam would need to vacate the land affected. MMRDA was said to be in an advanced stage of tendering.

7. What happened thereafter was that MMRDA began circulating in early January 2024, a glossy brochure saying that it was undertaking the entire development on the entire plot. A copy of this brochure is from page 105. It has all kinds of figures, images, legends, and slogans both appropriate and markedly less so. (For instance, it is curious that a proponent of a massive infrastructure project would quote Jane Jacobs, legendary for opposing precisely such development in New York city at the instance of Robert Moses). Brochure do not trouble us. They should not trouble the Petitioners.

8. Neelam's second worry is the document at Exhibit 'W,' called an RFP or Request for Proposal, for a term loan for what MMRDA describes as the Ramabai Redevelopment Project. This is a notice inviting Expressions of Interest (EOIs) or in principle sanction for a rupee-denominated loan of Rs 4000 crores to the MMRDA for the development of the slum rehabilitation project.

9. Neelam's third concern is that its proposal for the remaining slum re-development is not being processed by the SRA.

10. This is what brings Neelam to Court.

11. On the second sketch plan annexed to this order, the one tendered by Dr Sathe, we see that Neelam presently has two Letters of Intent ("LOIs"). The entire plot privately held is about 1,96,905 sq mts. The first LOI is of 15th May 2009 for an area of 18,100.18 sq mts, slightly revised to 20,375 sq mts. This LOI covers the portion shown in blue in the bottom left roughly triangular portion. Adjacent to that is an irregularly shaped portion covered by a revised LOI dated 12th June 2020. The amalgamated or combined area is 62,397.07 sq mts, still well short of the entirety of the plot. The revised LOI which covers the 62,037.07 sq mts includes the previous area of 20,370.35 sq mts.

12. The prayers in the Neelam Writ Petition read as follows:.

"(a) that this Hon'ble Court be pleased to issue a Writ of Mandamus and/or any other appropriate Writ, Order or direction calling for all the records, papers and proceedings in connection with the said property described in Exhibit

“A” hereto above and direct the Respondent No. 1 to 3 from taking any action or decision which is contrary to and/or inconsistent with the Letter of Intent annexed at Exhibits “C” to “G” issued for redevelopment for part of the said property more particularly described at Exhibit “A” hereto by Respondent No.2 in favour of the Petitioner;

(b) that this Hon’ble Court be pleased to issue a Writ of Mandamus and/or any other appropriate Writ, Order or direction calling for all the records, papers and proceedings in connection with the said property described in Exhibit “A” hereto above and direct the Respondents No. 1 to 3 from taking any action or decision which is contrary to and/or inconsistent with the directions contained or the decisions taken in the Minutes of Meeting held on 18th September 2023 annexed at Exhibit “S” hereto in connection with the redevelopment of the said property more particularly described at Exhibit “A” hereto;

(c) that this Hon’ble Court be pleased to issue a Writ of Mandamus and/or any other appropriate Writ, Order or direction calling for all the records, papers and proceedings in connection with the said property described in Exhibit “A” hereto above and direct the Respondent No. 1 to 3 to implement the directions contained or the decision taken in the Minutes of Meeting held on 18th September 2023 annexed at Exhibit “S” hereto in connection with the redevelopment of the said property more particularly described at Exhibit “A” hereto;

(d) that this Hon’ble Court be pleased to issue a Writ of Mandamus and/or any other appropriate Writ, Order or direction calling for all the records, papers and proceedings in connection with the said property described in Exhibit “A” hereto above and restrain the Respondent No. 1 to 3 from taking any action or decision which is contrary to and/or inconsistent with and which would affect the

Petitioner's rights in connection with the redevelopment of the said Property more particularly described at Exhibit "A" hereto under the provisions of the Regulation 33(10) of the DCPR 2034 and the provisions of the Slums Act; and not act or take any steps pursuant to the EOI annexed at Exh 'W';

(e) that this Hon'ble Court be pleased to issue a Writ of Mandamus and/or or any other appropriate Writ, Order or direction thereby directing Respondent No. 2 to conduct a biometric survey in respect of the structures on the proposed extension of the Eastern Freeway from Ghatkoper Mankhurd Link Road till Vikhroli which is marked in Red colour in Exhibit "R" hereto and issue a provisional Letter of Intent with respect thereto in order to enable the Petitioners to secure possession thereof and handover the same to Respondent No.3;"

13. Mr Chinoy and Mr Seervai for the Petitioners maintain that this is nothing but an attempt to hijack the slum redevelopment which is on a private plot without the due process of law and without the authority of law. The Petitioners' valuable development rights are not only adversely affected but are likely to be extinguished if MMRDA is allowed to continue. Mr Chinoy submits once the property is part of a slum project, no authority can simply override the settled rights of a developer under a slum rehabilitation scheme for which an LOI has been issued. If the slums are on private lands, the rights cannot be extinguished simply by a takeover of the slum redevelopment. The Maharashtra Slum Areas (Improvement, Clearance And Redevelopment) Act 1971 ("**Slums Act**") itself has important safeguards and inter alia allows a private owner a preferential right to develop before any other developer or

authority is brought in. The issuance of the brochure and its wide publicity and circulation and the RFP for finance all point in one direction, that is to say, a threatened or anticipated takeover action by MMRDA working with the State Government and the SRA.

14. Dr Sathe for SRA in the Neelam Writ Petition maintains that there is nothing to challenge. There can be no challenge to a brochure or an RFP. The two LOIs have not been cancelled.

15. Mr Chinoy says that there is a proposal proposed for the balance portion of the land and some payment has already been made under that proposal. But it is not in dispute that no LOI has yet been issued in regard to this private plot.

16. Mr Kadam for MMRDA maintains that MMRDA has overriding powers in law including the power to override the provisions of the Slums Act in a given case.

17. We have not thought it necessary to examine that aspect of the matter at all simply because as far as we are concerned, there is simply nothing that we can judicially review, quash or set aside. There is no question of judicially review a brochure, a request for proposal or an idea that some entity has simply floated. There is no executive direction or action that cancels the LOI, rejects the submission, proposes an acquisition of the land, or otherwise presently interferes with the Petitioners' existing LOIs and the existing proposal for the balanced land.

18. Mr Subramanian for the Garodias has only one grievance. In this fight, he says, it should not be that the owners of the land are completely excluded from all information. In Garodias' Petition, Mr Dwarkadas appears for the SRA. He submits that he is unable to understand what, beyond being "kept in the loop", the Garodias want or can possibly seek. We believe Mr Dwarkadas and Mr Subramanian are both right. The owner is undoubtedly entitled to know what is being done about the land in question and the SRA is equally bound to supply that information. We have no manner of doubt that if there is any action proposed that will affect ownership rights and all the rights of those whose names appear on ownership records and revenue records, the owners will of course be given sufficient notice and be kept informed. There is no other way we know of in law for these rights to be dealt with. There can be no expropriation. That would be entirely without the authority of law.

19. Equally, if either the State Government, MMRDA, or the SRA proposes to proceed with the Ramabai Redevelopment Project or RRP, these authorities will undoubtedly have to take the necessary steps in regard to Neelam's existing LOIs and its existing proposal for the balance land. In another manner of speaking, those LOIs would have to be cancelled and that scheme would have to be rejected. It is at that point, and not before, that Neelam would undoubtedly be able to approach a Court for redress on whatever grounds are available to it.

20. We have not in this matter considered any of those grounds because there is, according to us, simply nothing that can be

challenged today. For all we know, MMRDA may not proceed with the proposal. If it does, it will have to proceed in accordance with law. There are existing permissions, LOIs and submission. At least on the land covered by the first LOI, there is some work in progress. The number of persons affected is not small either. It is over a thousand. If the two LOIs are taken together there are nearly three and a half thousand structures or persons who are affected. These are by no means trivial, and we do not see how they can be simply defenestrated by a brochure or a RFP.

21. Clarifying that we have not examined either Mr Kadam's submissions on the powers of MMRDA or any possible challenges that the Neelam may have to any action if and when taken by MMRDA or the State Government or SRA, we reject these Petitions, but with no order as to costs.

22. Interim Application (L) No. 7974 of 2024 is dismissed.

(Kamal Khata, J)

(G. S. Patel, J)



Eastern Express Highway
A.G.R.: Andheri Ghatkopar Link Road.

