

Wadhwa

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 1654 OF 2021**

Sapphire Enterprises & Ors ...Petitioners
Versus
State of Maharashtra & Ors ...Respondents

**WITH
INTERIM APPLICATION (L) NO. 32464 OF 2023
WITH
WRIT PETITION (L) NO. 25694 OF 2023**

Udaynagar Rahvashi SRA Co-operative Society
(Proposed) ...Petitioner
Versus
State of Maharashtra & Ors ...Respondents

**AND
WRIT PETITION NO. 1607 OF 2022
(APPELLATE SIDE)**

Udaynagar Rahvashi SRA Co-operative Society
(Proposed) ...Petitioner
Versus
State of Maharashtra & Ors ...Respondents

Mr Mukesh Vashi, Senior Advocate, with Ms Manisha Desai, i/b

MP Vashi & Associates, for the Petitioners in WP/1654/2021 & for Respondent No 4 in WPL/25694/2023 & WP/1607/2022(AS).

Mr SB Gore, AGP, for the Respondent-State in both Writ Petitions Nos 1654/2021 & WPL/25694/2023.

Mrs AA Purav, AGP, for the State in WP/1607/2022.

Mr Jagdish G Reddy, for Respondent No 3 in WP/1654/2021 & for Respondents Nos 2 & 3 in WP/1607/2022.

Mr Karl Tamboly, with Hitesh Bhutekar, for Respondent No 5 in WP/1654/2021 & for Respondent No 6 in WPL/25694/2023.

Mr Shashant Borade, for Respondent Nos 4 & 5 in WP/1654/2021 & for the Petitioner in WPL/25694/2023 & WP/1607/2022.

**CORAM G.S. Patel &
 Kamal Khata, JJ.**

DATED: 30th January 2024

PC:-

1. On 28th July 2023, we made a common order in Writ Petition No 1654 of 2021 filed by Sapphire Enterprises, a developer, and Writ Petition No 1607 of 2022, a separate slum society with a similar name to Respondent No 4 in the Sapphire Enterprises Writ Petition.

2. There are thus two competing societies for the same group of slum dwellers. In our order of 17th April 2023, we directed the completion of Annexure II and then for the calling of a Special General Meeting to select the developer. We made it clear that other developers could also participate in that meeting. The Slum Rehabilitation Authority did not complete the Annexure II process

until recently. That is why no general meeting of slum dwellers has been called.

3. The Annexure II process is now complete. Mr Reddy tenders the Annexure II. It is a detailed and comprehensive document which gives reasons against each name for accepting or rejecting eligibility. A total of 161 persons are found eligible of which 155 are residential and six are commercial. Totally, 190 are found ineligible, five premises were shut and another 26 were outside the Scheme. A total of 382 persons or cases were taken up in Annexure II.

4. Now that the Annexure II is prepared, the Nodal Officer that we had appointed will call a meeting not of either of these two societies but of the eligible persons in Annexure II for the purposes of selecting a developer. We clarify that the requirement is not to ratify or confirm the appointment of Sapphire Enterprises but to select a developer of which Sapphire Enterprises may (or may not) be one. Other developers are also entitled to bid. The choice is entirely that of the eligible slum dwellers. It does not matter which society they claim to be members of. This dispute between rival promoters of proposed societies is self-defeating and is against the interests of eligible slum dwellers.

5. The argument that there are several slum dwellers whose eligibility has been wrongly rejected is not a matter that concerns us. There is no such prayer in any Petition before us. The co-operative society Petitions only seek a restraint on calling a General Body Meeting. That was obviously directed at a General Body Meeting to

be called by members of the Society who are supporting Sapphire Enterprises. We have bypassed that and made sure that the meeting will be called not of the general body of either society but of eligible slum dwellers. We do not see how any eligible person can have any objection to this.

6. We refuse to hold up this process at the instance of those who now claim (without any Petition) that their eligibility was not decided or was not correctly decided. That would cause enormous prejudice to those who have been held to be eligible. Those who have been held ineligible cannot hold to ransom the interests and the future of eligible slum dwellers.

7. If Sapphire Enterprises is not selected as the developer, given that it claims to be the owner of the land, its contentions in regard to a compulsory acquisition under Section 14 of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 are kept open for appropriate proceedings.

8. The Nodal Officer will be present at the meeting in question. Public notice will be required as also private notice to the extent possible. It is for the Nodal Officer to decide what the necessary coram should be out of 161 eligible persons. Given the requirements of law, the necessary coram cannot be less than 50% of those found eligible. The requisite percentage majority must vote in favour of a chosen developer be it Sapphire Enterprises or some other developer.

9. The previous directions in regard to inviting other developers and calling the meeting will continue.

10. In our view this is sufficient to dispose of all Petitions that are before us.

11. In view of disposal of the Petitions, Interim Application does not survive and the same also stands disposed of.

(Kamal Khata, J)

(G. S. Patel, J)