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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2041 OF 2021

Bombay Slum Redevelopment Corporation Pvt Ltd ...Petitioner

Versus

Slum Rehabilitation Authority & Ors ...Respondents

WITH

INTERIM APPLICATION NO. 949 OF 2024

IN

WRIT PETITION NO. 2041 OF 2021

Pramila Sadhu Shetty ...Petitioner

Versus

Slum Rehabilitation Authority ...Respondent

WITH

WRIT PETITION NO. 2016 OF 2024

Bombay Slum Redevelopment Corporation Pvt Ltd ...Petitioner

Versus

Mumbai Housing and Area Development Board & Anr ...Respondents

WITH

INTERIM APPLICATION NO. 4663 OF 2022

IN

WRIT PETITION NO. 2016 OF 2024

The Juhu Vile Parle Development Co-operative
Housing Association Ltd ...Petitioner

Versus

Bombay Slum Redevelopment Corporation Pvt
Ltd & Ors ...Respondents

WITH

INTERIM APPLICATION (L) NO. 37489 OF 2022

IN

WRIT PETITION NO. 2016 OF 2024

Bombay Slum Redevelopment Corporation Pvt ...Applicant/
Ltd Petitioner

Versus

Mumbai Housing and Area Development Board ...Respondents
& Anr

WITH

INTERIM APPLICATION (L) NO. 38304 OF 2022

IN

WRIT PETITION NO. 2016 OF 2024

DG Power and Infrastructure Pvt Ltd ...Applicant

In the matter between

Bombay Slum Redevelopment Corporation Pvt
Ltd ...Petitioner

Versus

Mumbai Housing and Area Development Board ...Respondents
& Anr

Mr Janak Dwarkadas, Senior Advocate with Ashish Kamat, Senior Advocate, with Nishant Chotani, Atman Mehta, Vipul Patel, Rachit Bhargava & Siddhant Sanghavi, i/b Jitendra Shah, for the Petitioner in WP/2041/2021.

Mr Ashish Kamat, Senior Advocate, with Nishant Chotani, Atman Mehta, Vipul Patel, Rachit Bhargava & Siddhant Sanghavi, i/b Hareesh Mehta & Co, for the Petitioner in WP/2016/2024.

Mr Kunal Dwarkadas, i/b Dastur Kalambi & Associates, for the Applicant in IA/4663/2022.

Mr Sumit Kothari, for the Applicant in IAL/38304/2022.

Mr Pranit Kulkarni, with Sachin Mhatre, Yogesh Naidu, Diksha Shirodkar, & Ishika Kamath, for the Applicant in IA/949/2024.

Ms Geeta Shastri, for the SRA in WP/2016/2024.

Mr VA Thorat, Senior Advocate, i/b Anoop Patil, for Respondents Nos 1, 2 & 6 (SRA), in WP/2041/2021.

Mr VP Sawant, Senior Advocate, with PG Lad & Aparna K, for the MHADA in WP/2016/2024.

Mr Shrikrishna Ganbavle, with Rahul Rao & Revati Rajput, i/b Rajpur Vaidya & Associates, for Respondents Nos 3 & 5.

Mr Mayur Khandeparkar, with Ashish Vervekar, i/b Shanti Bandelkar, for Respondent No 9.

Mr Anand Pai, i/b Ravi Kotian, for Respondent No 4.

Ms Sandhya Bavankule, Assistant Registrar, SRA, present.

Mr Hemant Gawde, Co-operative Officer, SRA, present.

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

DATED: 15th April 2024

PC:-

1. We are dissatisfied with the report of the Slum Rehabilitation Authority (“SRA”) that was made pursuant to our order dated 11th December 2023. The only thing we need to note even now is that

the Writ Petition has been pending since 2019 when Rule was issued.

2. Mr Khandeparkar is for Respondent No 9, a rival developer to the Petitioner developer. We had asked for a vote by secret ballot to be conducted by the SRA so that the eligible slum dwellers would get to make an informed decision about the remaining development.

3. The report of the SRA of the meeting that was held indicates that the SRA was faced with objections of one kind or the other. It therefore decided to have two ballot boxes. We had never contemplated this. We had never permitted this. The SRA could not possibly have proceeded in this fashion. If there was an objection or there was any difficulty, the SRA was required to come back to this Court for a clarification.

4. There are allegations and counter allegations even thereafter and we see no purpose achieved by addressing these. The integrity of the entire process has been completely compromised. It will need to be restarted.

5. We reject the submission that the voting should be conducted by an officer of the Court. The SRA is a responsible public authority and we can trust it to conduct an election of this kind.

6. The voting will be by a secret ballot. The previous directions as to venue and time will remain. The date will need to be notified in

advance. Care must be taken to ensure that the ballot is truly secret and that there are no identifying marks on the ballot papers.

7. The controversy really is about the electorate and who is entitled to vote. This needs an explanation and on the basis of this order today, we will require SRA to draw up a list, an electoral list, which we propose to take on the record to avoid all such controversies in future.

8. The starting point is of course the Annexure II listing. To be entitled to vote a person must first be on Annexure II. If that person is not on an Annexure II, she or he cannot vote.

9. Second, the person must be shown to be eligible. Ineligible persons cannot vote. Eligibility may be as noted in the Annexure II or it may be as per a subsequent order that decides eligibility favourably. Without this the person cannot vote.

10. Third, comes the reverse, a disqualification. If a person who is on the list and is eligible has been allotted or is in possession of any premises at all on the site, that person is not entitled to vote. We will not enter into a discussion whether the allotment was proper, directly done, done by a slum society or whether an outsider was inducted. This is obvious because the choice is to be made by persons who are on the list, are eligible but have not been allotted and are therefore still awaiting their rehab tenements — and no others.

11. If there is a case where the names of two or more persons are shown against a single hut and the eligibility of one of them has not been decided, then neither of them is entitled to vote because there is the distinct possibility that both may be held to be ineligible.

12. It is on this basis and on the basis of SRA records (and not with reference to any Affidavits that may have been filed after the previous report), that the SRA will prepare a consolidated list of the persons who are entitled to vote. This list will be given to us in Court so that it can be made an order of the Court and further directions can be passed thereafter. This list is to be prepared and given to us by Monday, 22nd April 2024.

13. List these matters high on board on 23rd April 2024.

(Kamal Khata, J)

(G. S. Patel, J)