

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 17684 OF 2023**

Late Yallapa Narayan Sonavane ...Petitioner
Versus
Deepak Vithal Rao ...Respondent

Mr Sharan Jagtiani, Senior Advocate, with Aman Kacheria, i/b IZ Merchant, for the Petitioner.

Mr Vincent D'Silva, with Prabhat Dubey & Sujit More, for Respondent No.1.

Mr Jagdish Aradwad (Reddy), for Respondents Nos. 2, 4, 5 & 6 (SRA).

Mr Anoop Patil, with Shashank Shubham, for Respondent No.3-AGRC.

Mr Amol B, for Respondent No.7.

Mr Sagar Patil, for MCGM.

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**CORAM G.S. Patel &
 Neela Gokhale, JJ.
DATED: 11th August 2023**

PC:-

1. On 3rd August 2023, we made an order noting that the submission of the developer, the 1st Respondent, represented by Mr D'Silva, did not reconcile with the facts of the case. In particular, there is a statement in the Affidavit in Reply that the developer was ready to clear all arrears of transit rent. We noted that SRA had

computed the amount due at about Rs. 5.56 crores which we rounded out to Rs.5.55 crores. We said that we could not grant the developer extended time. Arrears were due from 2015 with some interspersed payments. We directed that the amount be deposited by today and we said that after that deposit was made, we would hear Mr D'Silva on the amount that was due and on any other submission. These submissions would have included submissions on maintainability.

2. Nothing has been deposited. This is precisely the problem. The impugned order of the Apex Grievance Redressal Committee (“**AGRC**”) does not even care to put the developer to terms as to when the transit rent would be paid. It simply reinstates the developer and asks that he submit a bar chart for progress. That hardly addresses the question for defaults.

3. But the defaults are not even from the date of the impugned AGRC order of 17th May 2023. They run from much earlier. The claim is of amounts due from 2015 approximately. But this order of the Chief Executive Officer (“**CEO**”) of Slum Rehabilitation Authority (“**SRA**”) is of 14th December 2021 and it was this order that was carried to the AGRC by the 1st Respondent developer in Appeal. Before the CEO of SRA, i.e., in December 2021, nearly two years ago, the developer said that he would clear all arrears of transit rent.

4. Nothing has been paid.

5. We do not see how this or any other developer can proceed simply on promises, assurances, promises of undertakings, assurance of undertakings and so on to the end of the chapter and through Counsel then raise all manner of arguments about maintainability, rights and so on. We have made this abundantly clear: the failure to pay transit rent and the failure to complete the rehab project on time is fundamental. It is well settled in law, whether this developer likes it or not, that in a slum rehabilitation project the developer has no rights in the land. That is a Division Bench judgment and it is as binding on us as it is on the Petitioner.

6. Mr D'Silva only pleads for one last opportunity. We accept that at face value, but we do not accept his request for "at least six weeks time". That is entirely too fluid and uncertain. In making this submission, the developer forgets that transit rent is due from 2015, that there is a commitment to the CEO, SRA from December 2021 and since 17th May 2023 the date of the AGRC order, the 1st Respondent has had more than enough time, well above "at least six weeks" to clear these dues.

7. Even Rs.5.55 crores is not the entire amount of transit rent. It is merely to demonstrate *bona fides*. If the 1st Respondent cannot do even this much, then we would be justified in saying that the developer is not entitled to be heard on any aspect of the matter whether it is as to maintainability or otherwise.

8. If we allow this developer time, it is an indulgence. We grant time only until 15th September 2023. The amount of Rs.5.55 crores

must be brought into Court by that date. If that is not done, the AGRC order will be automatically and without further reference to the Court stand set aside, and Rule will be made absolute in terms of prayer clause (a) and the 14th December 2021 order of the CEO will be restored.

9. If that amount is brought into Court by 15th September 2023, the matter will be listed on 3rd October 2023 when all arguments by the developer will be taken into account. All contentions on both sides will be left open for that hearing but subject to that condition being met. Mr Jagtiani will be entitled to argue for the Petitioners that in reckoning the delay, the present application for an extension will also be allowed to be invoked by the Petitioners in meeting any defence that may be raised by the 1st Respondent.

10. List the matter on 3rd October 2023.

(Neela Gokhale, J)

(G. S. Patel, J)