

NON-REPORTABLE

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

SPECIAL LEAVE PETITION (CIVIL) NO. 6070 OF 2014

**ADARSH ESTATE SAHAKARI GRIHA NIRMAN
SANSTHA MARYADIT (PROPOSED) PETITIONER(S)**

VERSUS

STATE OF MAHARASHTRA AND ORS.RESPONDENT(S)

WITH

SPECIAL LEAVE PETITION (CIVIL) NO. 6204 OF 2014

O R D E R

B.R. GAVAI, J.

1. Both these Special Leave Petitions are challenging the judgment and Order dated 20th January, 2014 passed by Division Bench of the Bombay High Court of Judicature at Bombay in Writ Petition No. 1595 of 2009 along with Notice of Motion No. 205 of 2011 and Writ Petition No. 1596 of 2009 along with Notice of Motion No. 206 of 2011.

2. The facts in brief leading to the present special leave petitions are as under.

The petitioner in SLP (C) No. 6070 of 2014 is a society (hereinafter referred to as "Adarsh") of slum dwellers of plot bearing CTS No. 601, having a total area admeasuring 704.30 sq. mts. The petitioner in SLP (C) No. 6204 of 2014 is a society (hereinafter referred to as "Saidham") of slum dwellers of plots bearing CTS Nos. 595, 596 and 602 having a total area admeasuring 2247.20 sq. mts. The respondent no. 5 in both the special leave petitions, namely, Maruti Nagar Co-operative Housing Society, is also a society of slum dwellers (hereinafter referred to as "Maruti") situated on plots bearing CTS Nos. 585, 604 and 605, having a total area admeasuring 6627.50 sq. mts. The said plots on which the aforesaid three slums are situated are owned by the Municipal Corporation of Greater Mumbai, Respondent no. 4 in both the special leave petitions (hereinafter referred to as "the Corporation"). The General Body of Maruti (Respondent no. 5 herein) had passed a resolution regarding implementation of Slum Rehabilitation Scheme and appointed a developer. Thereafter, on 06th September, 2005, Maruti submitted a proposal for a Scheme of rehabilitation of slum dwellers. In furtherance of the proposal submitted by it, respondent Nos. 3 and 4 initiated proceedings for verifying Annexure-II, i.e. list of eligible and non-eligible slum dwellers. On

8th March, 2006, the Corporation forwarded Annexure-II to Slum Rehabilitation Authority (hereinafter referred to as the "SRA"). However, it appears that, thereafter, several complaints were received regarding frauds being committed in the preparation of Annexure-II. The SRA passed an order on 20th December, 2006 observing therein, that Annexure-II was issued on account of bogus and fraudulent documents filed by Maruti. The Corporation, therefore, cancelled Annexure-II.

3. In the meantime, both the petitioners, Adarsh as well as Saidham, had submitted Slum Rehabilitation proposals, in respect of slum dwellers on the plots mentioned hereinabove along with the consent of the slum dwellers and a General Body resolution. The SRA after considering the proposal of the petitioners, directed acceptance of the scrutiny fee, which is duly paid by both of them. On 11th July, 2008 the Assistant Municipal Commissioner addressed a communication to the SRA stating therein, that after calling required documents from Maruti they would scrutinize and process a revised Annexure-II on merits. In response to the said communication, the SRA informed the Corporation about the letter of the Corporation dated 16th September, 2006 by which they had informed that Annexure-II issued to Maruti

stood cancelled on account of fraud. On 29th July, 2008 the SRA addressed a letter requesting the Corporation to scrutinize the draft Annexure-II submitted by the Petitioners. On 6th October 2008, SRA informed the Corporation that the proposal of the Petitioners for issuance of Annexure-II be held to be treated as acceptable. It was also informed that since the proposal of Maruti had already been rejected, the question of issuing any Annexure-II in its favour did not arise.

4. In November, 2008, Maruti filed two separate applications to the High Power Committee against the Petitioners, requesting that the SRA should not sanction the proposal submitted by the Petitioners and that its proposal should be reconsidered. Vide Order dated 7th February, 2009 the High Power Committee set aside the Order passed by the SRA dated 30th December, 2006, by which the SRA had rejected the proposal of Maruti.

5. The orders passed by the SRA were assailed before the Bombay High court in Writ Petition Nos. 1595 of 2009 and 1596 of 2009 filed by Adarsh and Saidham respectively. Vide Order dated 11th January, 2010 Rule was granted in those petitions. Liberty was also granted to the petitioners to apply for relief in case of any adverse action. In the meantime, the Corporation had

published a draft Annexure-II in favour of Maruti. Accordingly on 7th May, 2011 the SRA fixed a hearing on 23rd May, 2011 for cancellation of the proposal of Petitioners. The Petitioners, therefore, moved Notices of Motion before the High Court. By an Order dated 20th May, 2011 the High Court granted interim relief to the Petitioners thereby, staying the hearing fixed before C.E.O., SRA. Vide subsequent Orders dated 08th November, 2011 and 22nd November, 2011, the High Court permitted the SRA to proceed with the hearing and further directed that the decision, if any, which would be taken shall not be implemented, till further Orders are passed by the High Court. Vide Order dated 5th March, 2012 the SRA rejected the proposals of the Petitioners and directed that the proposal of Maruti be processed further on the basis of revised Annexure-II, to be issued by the Corporation. Finally, by an Order dated 20th January, 2014 both the Writ Petitions were rejected by the High Court. Being aggrieved, the petitioners have filed these Special Leave Petitions.

6. During the pendency of hearing, the SRA as well as Maruti had filed Affidavit stating therein, that each of the seven plots are capable in law of independent schemes. This court, therefore, directed the SRA by an

Order dated 16th February, 2018, to submit a draft proposal for settlement, in terms of its affidavit and submit the same for approval by other parties. In accordance with the Order passed by this court, the SRA has circulated a draft terms of settlement proposing therein, that the Corporation should issue independent Annexure-II to all the three societies, i.e. Adarsh, Saidham and Maruti for their respective independent plots. It is further proposed that Adarsh and Saidham, the petitioners herein, shall either jointly develop their properties or develop their properties independently. It is further proposed that, in the event Adarsh was to develop the property separately, since it was not having a direct access, it should be provided an access by a road having a width of 9 meters. It was further proposed that Maruti should develop its property independently. Accordingly I.A. No. 97692/2018 came to be filed by the SRA. An affidavit dated 21st July, 2018 which came to be filed on 25th July, 2018 by Maruti stating therein, that it has taken a conscious decision, to accept the terms of settlement submitted by the SRA so that all the three proposals can independently be developed by the respective societies. Similar affidavit came to be filed by both the Petitioners, accepting the terms of settlement as proposed by the SRA. The

Respondent-Corporation has also filed an affidavit dated 28th August, 2018 that it has no objection for accepting the terms of settlement as proposed by the SRA.

7. Ordinarily the matter should have ended here. However, Maruti filed I.A. No. 11905 of 2019 thereby, praying for permitting it to withdraw its Additional Affidavit dated 21st July, 2018 i.e. giving consent to the settlement. Immediately after filing the I.A., 214 slum dwellers of Maruti (Respondent No. 5 herein) had addressed a letter dated 29th January, 2019 to the Registry of this Court stating therein, that they had never opposed the terms of settlement proposed by the SRA and expressly recorded their consent. Since it was contested before this court by the Petitioners that letter dated 11th October, 2018 purported to withdraw the consent, originally contained only six names and the other names, which have been added to that letter are by simply plucking them from the letter dated 30th May, 2018, this court appointed Shri Ashish Wad, Advocate, who was appearing for the Municipal Corporation, to act as a Local Commissioner.

8. The Local Commissioner has submitted his report on 9th July, 2019. A perusal of the report would categorically show, that letter dated 11th October 2018

was not signed by 172 slum dwellers but only by 6 persons.

9. Taking into consideration all these aspects of the matter, it is clear that letter dated 11th October, 2018 thereby seeking to withdraw the consent which was already given to the terms of settlement is a fabricated document, containing only six signatures and rest of the names have been plucked out from the letter dated 30th May, 2018. Apart from that, we also find that on account of litigation between the three societies the development of the project is lingering from 2005 and no progress has taken place for a period of more than 14 years. The slum dwellers residing in the slums have been deprived of shifting to a decent accommodation. We further find, that if all the 3 societies are permitted to be developed independently, no prejudice would be caused to any of slum dwellers. On the contrary, in our considered view, the settlement arrived at between the parties, and which was already accepted by all the stakeholders, is fair and reasonable and in interest of the slum dwellers of all the three societies.

10. In that view of the matter I.A No. 11905/2019 is rejected.

11. I.A. No. 97692/2018 is allowed. The Special Leave Petitions are disposed of in terms of settlement dated 16th April, 2018 marked as Annexure-II to I.A. No. 97692/2018.

12. The parties to bear their own costs.

.....J.
[S.A. BOBDE]

.....J.
[R. SUBHASH REDDY]

.....J.
[B.R. GAVAI]

NEW DELHI;
AUGUST 8, 2019.