

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 887-888 OF 2020

[Arising out of S.L.P.(C)Nos.33078-33079 of 2015]

Uttar Bhartiya Rajak Samaj Panchayat
Banganga Rajak Samaj Co-operative
Housing Society (Proposed) & Anr.

.....Appellants

Versus

State of Maharashtra Through Secretary & Ors.

.....Respondents

J U D G M E N T

R. Subhash Reddy, J.

1. Leave granted.

2. These civil appeals are filed by the original petitioners in Writ Petition No.1902 of 2010 filed before the High Court of Judicature at Bombay, aggrieved by the order dated 03rd May 2012 dismissing the writ petition and further order dated 01st of July 2015 dismissing the review petition.

3. In the aforesaid writ petition filed before the High Court, the appellants have challenged an order of the High Power Committee (HPC) dated 19th December 2009 by which, the demand made by the 2nd respondent Slum Rehabilitation Authority (SRA) demanding premium of

an amount of Rs.8,47,69,029.69 (Rupees Eight Crores Forty Seven Lakhs Sixty Nine Thousand Twenty Nine and Sixty Nine Paise only), is confirmed in respect of Letter of Intent (LOI) dated 05th January 2005, issued in their favour for Slum Rehabilitation Scheme. The appellants also sought directions to direct the SRA to issue Commencement Certificate as per the existing guidelines.

4. The appellant no.1 is the registered society of slum dwellers, who are stated to be residing on plot bearing no.CS No.51, 2/51, 3/51 of Malabar Hill and Cumballa Hill Div. at Bhagwan Indrajit Road, Mumbai. The appellant no.2 is a rehabilitator who was approached by the 1st appellant-society to develop the said plot and rehabilitate its members under Slum Rehabilitation Scheme, under Maharashtra Slum Rehabilitation Act, 1976. On the proposal for the aforesaid scheme, a LOI bearing no.SRA/Eng/875/D/GL/LOI dated 05.01.2005 has been issued by the 2nd respondent-authority in favour of the 2nd appellant to carry out the said rehabilitation. Since the said plot was within the area of Coastal Regulation Zone (CRZ), the said LOI was issued subject to clearance by CRZ authorities as provided under Clause 46, by the 1st respondent and Maharashtra Coastal Zone Management Authority (MCZMA).

5. During the pendency of the proceedings before the Coastal Zone Management Authority, 1st respondent-Government issued notification dated 16.04.2008. The Government of Maharashtra has issued directives under Section 37(1) and Section 154 of the Maharashtra

Regional & Town Planning Act. As per the above said directives issued by the Government, developer/co-operative society is required to pay premium @ 25% in terms of the Ready Reckoner in respect of Slum Rehabilitation Scheme proposed to be undertaken on the lands owned by the Government, Semi-Government Undertakings and local bodies. In view of the said notification issued by the Government, the appellants were demanded an amount of Rs.8,47,69,029.69 (Rupees Eight Crores Forty Seven Lakhs Sixty Nine Thousand Twenty Nine and Sixty Nine Paise only) towards the premium.

6. Questioning the letter of demand issued by the 2nd respondent for the aforesaid sum, the appellants have approached the HPC. Even the HPC has considered the issue and rejected the claim of the appellants that they are not required to pay the premium amount as much as they were already issued LOI dated 05.01.2005. Questioning the demand of Rs.8,47,69,029.69 and further order issued by the HPC, the appellants have approached the High Court by filing writ petition in W.P.No.1902 of 2010. The above writ petition was dismissed by the impugned order dated 03.05.2012 by the High Court of Judicature at Bombay and the review petition filed by the appellants has also ended in dismissal by order dated 01.07.2015.

7. We have heard Sri Shekhar Naphade, learned senior counsel appearing for the appellants and learned counsel appearing for the 1st respondent-Government and 2nd respondent-authority.

8. The Letter of Intent dated 05.01.2005 was issued in favour of the appellants in respect of the scheme, under Development Control Regulation 33(10). Clauses 40 and 46 of the LOI read as under :

“40. That this LOI is valid for the period of 3 (three) months from the date hereof. However, if IOA/CC is obtained for any one bldg.. of the project then this LOI will remain valid till completion of estimated project period.

... ..

46. That the confirmation from Govt. regarding the imaginary line from CRZ point of view shall be obtained before asking approval of plans & if required the scheme shall be revised accordingly.”

9. As the area covered by the scheme was within the CRZ, the appellants have approached the Coastal Zone Management Authority for clearance. During the pendency of the application, the Government of Maharashtra has issued directives in exercise of power under Sections 37(1) and 154 of the Maharashtra Regional & Town Planning Act. Clause 3 of the schedule thereto reads as under :

“3. Premium in respect of lands of public ownership:

The title of regulation No.1.11 of Appendix IV of Regulation 33(10) shall be changed as “Premium for ownership and terms of lease”.

Also following provision shall be added after the existing provisions of Regulation 1.11 of Regulation 33(10).

“In addition to above, the Developer/Co-op. Housing Society shall pay premium at the rate of Twenty Five percent in terms of Ready Reckoner in respect of Slum Rehabilitation Scheme proposed to be undertaken on lands owned by Government, Semi-Government Undertakings and Local Bodies.”

10. It is contended by learned senior counsel Sri Shekhar Naphade that in view of the delay in clearance by the Coastal Zone Management Authority, the appellants cannot be prejudiced, for payment of premium pursuant to directions issued on 16th April 2008. It is submitted that appellants were issued Letter of Intent on 05.01.2005. The delay which is to be attributed to Coastal Zone Management Authority cannot come in the way of the appellants so as to recover huge amount of Rs.8,47,69,029.69 towards premium. On the other hand, learned counsel appearing for the respondents have submitted that the validity of the Letter of Intent was only for a period of three months and the same was not extended and no representation to that effect was filed so as to keep it alive. In view of the same, the conditions notified in the GR dated 16.04.2008 will apply for the scheme.

11. In this case it is to be noted that the Letter of Intent was valid for a period of three months only. If, for any reason, delay is occurred in obtaining clearance from the Coastal Zone Management Authority, nothing prevented the appellants to make appropriate representation so as to keep the Letter of Intent alive. When the validity of Letter of Intent itself is for three months and if the same is not kept alive, we are of the view that the premium is to be paid as per the Government Resolution dated 16.04.2008. By virtue of the aforesaid notification, developer/co-operative society is required to pay premium @ 25% in terms of the Ready Reckoner, in respect of Slum Rehabilitation Schemes proposed

to be undertaken on the lands owned by the Government, Semi-Government Undertakings and local bodies.

12. In that view of the matter the demand made by the respondents is in conformity with the law and we do not find any illegality in the impugned orders passed by the High Court in either dismissing the writ petition or the review petition.

13. For the aforesaid reasons, the civil appeals are devoid of merit and are accordingly dismissed, with no order as to costs.

.....J.
[MOHAN M. SHANTANAGOUDAR]

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

New Delhi.
January 31, 2020.