

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
MISCELLANEOUS APPLICATION NO. 437 OF 2022
IN
CIVIL APPEAL NO 18121 OF 2017

Susme Builders Pvt Ltd thr. Director Syam Agarwal ... **Appellant**

Versus

Chief Executive Officer, Slum Rehabilitation Authority & Ors ... **Respondents**

WITH

MISCELLANEOUS APPLICATION NO. 377 OF 2019
IN
CIVIL APPEAL NO 18121 OF 2017

AND

MISCELLANEOUS APPLICATION NO. 842 OF 2019
IN
CIVIL APPEAL NO 18121 OF 2017

ORDER

1 By these Miscellaneous Applications, the applicant (original respondent no.1) has prayed for the following reliefs :

- “i) To issue necessary orders for relaxing the stringent conditions as laid down by the SRA in its previous bid/tender, as mentioned at para-24 above, apart from time limit of completion of project and amount of Bank Guarantee.
- ii) To direct the SRA Authorities to expedite the process of development and submit its quarterly status report to this Hon 'ble Court from time-to-time; and/or
- ii) To issue necessary orders/ instructions to the SRA Authorities as may deem fit.”

2 In the aforesaid context, we must first look into the order dated 4th January, 2018

wherein in paragraph 87, the following has been observed :

“87. This is a case where the earlier Bench of this Court had invoked its power under Article 142 of the Constitution of India and we also feel that it is a fit case for invocation of this Court's jurisdiction under Article 142 of the Constitution of India. Hence, in exercise of this Court's power under Article 142 of the Constitution of India, we issue the following directions/ orders for doing complete justice:

1. That the SRA shall within three weeks of the receipt of this order, invite letters of interest from renowned builders/developers, who have the capacity and experience to take up such a large project by issuing advertisements in not less than three newspapers having wide circulation in Mumbai, one each in English, Hindi and Marathi;
2. The advertisement may be brief but all necessary details must be incorporated in the advertisement. The details of the project including a copy of this judgment should be made available on the website of the SRA;
3. After the letters of interest are submitted, the SRA shall consider which is the best offer and while considering the best offer, it shall ensure that the terms offered to the occupiers are in no manner disadvantageous to them when compared to the last offer made by Susme in regard to the area of flat offered, the nature of construction and other facilities available on the site. The SRA must, while evaluating the proposals, take into consideration the past record of the party/person expressing interest: it shall also take into consideration the financial viability of such party/person and, therefore, it may ask such party/person to submit all the documents to support their financial viability. In case of any doubt, the SRA can move appropriate application before this Court;
4. The persons who express interest must be willing to give an assurance that they will submit plans within one month of the approval of their proposal and all the concerned authorities must, within 15 days thereafter, raise objections, if any, giving the successful bidder a chance to remove the objections, if any, within one month thereafter;
5. Thereafter, the concerned authorities should

ensure that the plans are approved and sanctions granted latest within two months of the submission of the original plans. The successful developer should undertake to complete the rehabilitation of part of the project to rehabilitate all eligible occupiers/slum dwellers within a period of two years from the date of sanction of the plan. The successful bidder must give a bank guarantee of Rs. 200,00,00,000/- (Rupees Two Hundred crores only) to ensure that it does not violate the terms and conditions of the rehabilitation scheme. In case of violation of the terms and conditions of the rehabilitation scheme without reasonable cause, the SRA will be entitled to invoke the bank guarantee, after giving notice to the developer;

6. Keeping in view the fact that the slum dwellers are also the owners, the developers may also indicate what benefit they will give to the members of the Society either in cash or in kind by means of giving additional built up area out of their own free sale area to such members of the Society;
7. The SRA shall monitor the progress of the Scheme to ensure that it is completed within the time granted by this Court;
8. No Court or authority shall pass any order which will in any manner affect the implementation of the directions/orders issued by us;
9. The Society, its members, the SRA and all concerned will render complete assistance to the builder/developer, who is awarded the project by the SRA; and
10. That all pending litigation shall be disposed of in view of the aforesaid orders passed by us and shall be disposed of by the Court(s) accordingly."

3 We may also refer to the order dated 9th April, 2018 which reads as under :

"The learned ASG has pointed out very broadly that the requirement of a bank guarantee of Rs. 200 crores is excessive. He says that the normal practice is that the bank guarantee should be 5% of the total value of the project. As per him, the value of project is estimated at Rs.90 crores.

Under the circumstances, we reduce the requirement of a bank guarantee from Rs.200 crores to Rs.20 crores.

The second submission made by the learned ASG is that the period of two years for making the construction should be clarified to the effect that the construction should be completed within two years from the date of issuance of commencement certificate.

We are of the view that this is a reasonable submission and the necessary change may be made.

In view of the above, a fresh advertisement be published and the time shall stand extended accordingly.

The applications are disposed of.”

- 4 We have heard Mr. Atma Ram Nadkarni, the learned senior counsel appearing for the applicant, Mr. Saurabh Kirpal, the learned senior counsel appearing for the slum dwellers Association and Mr. Amar Dave, the learned senior counsel appearing for the builder.
- 5 When this matter was heard for the first time, we were not inclined to grant the relief as prayed for in the Miscellaneous Applications. However, we wanted Mr Nadkarni to seek appropriate instructions from his client whether they are agreeable to issue a fresh tender notice or not. Today, when the matter was taken up for hearing, Mr. Nadkarni has instructions from his client to make a statement that they would be issuing a fresh tender notice within a period of four weeks from today.
- 6 Mr. Kirpal, the learned counsel appearing for the slum dwellers, has expressed grave concern and apprehension as regards the project, more particularly the pace at which the project is proceeding. Unfortunately, there is no development worth the same as on date.

- 7 It appears from the materials on record that there is one major *nala* of Vakola which is causing hindrance in the way of implementation of the rehabilitation scheme. In view of the statement made by Mr. Nadkarni, the applicant shall now proceed to issue a fresh tender notice in terms of paragraphs 4 and 6 respectively of the Minutes of Meeting recorded dated 8th and 9th August, 2024 respectively. Para 4 talks about the time period likely to be consumed for completion of the project and para 6 talks about the time period likely to be consumed to take care of the Vakola *nala*. It is understood that whoever is the successful bidder will have to comply with these two conditions, more particularly, the time limits over and above the conditions which are already incorporated in the two orders referred to above.
- 8 At this stage, Mr. Amar Dave, the learned senior counsel appearing for the builder who was declared the successful bidder submitted that in the wake of the aforesaid developments, he should be refunded the earnest money deposit of Rs.2,00,00,000/- (Rupees two crore only). This amount was deposited by him on 25th April, 2023. The applicant shall act accordingly. Let this amount towards the earnest money deposit be refunded to Mr. Amar Dave within a period of two weeks from today.
- 9 The time limits, as fixed by this Court vide order dated 4th January 2018 and 9th April, 2018 respectively stands modified accordingly.
- 10 The fresh tender notice that the applicant will be issuing shall disclose the modified time lines.
- 11 The minutes of meeting dated 8th and 9th August, 2024 produced by Mr. Nadkarni

is ordered to be taken on record and be marked as Annexure 'X'.

- 12 As lot of time has elapsed without any progress, we grant liberty to the slum dwellers to approach this Court in case of any further difficulty.
- 13 The Miscellaneous Applications shall stand disposed of accordingly.
- 14 Pending applications, if any, stand disposed of.

.....J.
[J B Pardiwala]

.....J.
[Manoj Misra]

New Delhi;
October 18, 2024
GKA

ITEM NO.3

COURT NO.10

SECTION III

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Miscellaneous Application No. 437/2022 in C.A. No. 18121/2017

(Arising out of impugned final judgment and order dated 09-04-2018 in C.A. No. No. 18121/2017 passed by the Supreme Court Of India)

SUSME BUILDERS PVT. LTD THR. DIRECTOR SYAM AGARWAL **Petitioner(s)**

VERSUS

**CHIEF EXECUTIVE OFFICER,
SLUM REHABILITATION AUTHORITY AND ORS.**

Respondent(s)

(FOR ADMISSION and IA No.29004/2022-MODIFICATION IA No. 44048/2022 - APPROPRIATE ORDERS/DIRECTIONS)

WITH

MA 377/2019 in C.A. No. 18121/2017 (III)
(IA No. 50349/2019 - APPROPRIATE ORDERS/DIRECTIONS IA
No.182621/2018 - CLARIFICATION/DIRECTION IA No. 45140/2019 -
EXEMPTION FROM FILING O.T. IA No. 50350/2019 - EXEMPTION FROM
FILING O.T. IA No. 45139/2019 - INTERVENTION APPLICATION)

MA 842/2019 in C.A. No. 18121/2017 (III)
(FOR ADMISSION FOR CLARIFICATION/DIRECTION ON IA 60765/2019)

Date : 18-10-2024 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE MANOJ MISRA

For Petitioner(s) **Mr. Kush Chaturvedi, AOR**
 Mr. Uday B. Dube, AOR
 Ms. Pallavi Langar, AOR

For Respondent(s) **Mr. Atma Ram Nadkarni, Sr. Adv.**
 Mr. Sanjay Kharde, Sr. Adv.
 Mr. Satyajeet Kharde, Adv.
 Mr. Sunny Jadhav, Adv.
 Mr. Sunil Kumar Verma, AOR

Mr. Amit Sharma, AOR

Mr. Uday B. Dube, AOR
Mr. Kush Chaturvedi, AOR
Mr. Prashant Shrikant Kenjale, AOR

UPON hearing the counsel the Court made the following
O R D E R

- 1 The Miscellaneous Applications shall stand disposed of in terms of the signed order.
- 2 Pending applications, if any, stand disposed of.

(GULSHAN KUMAR ARORA)
AR-CUM-PS

(SAROJ KUMARI GAUR)
ASSISTANT REGISTRAR

(Signed order is placed on the file)