

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 126 OF 2008

IN

WRIT PETITION NO. 1326 OF 2007

- 1) Tulsiwadi Navnirman (SRA) Co-operative)
 Housing Society Ltd., a Society duly registered)
 under the Maharashtra Co-operative Societies)
 Act, 1960 having its office at Tulsiwadi)
 Tardeo, Mumbai 400 034.)
- 2) Harish P Dharia)
 An adult, Indian Inhabitant, residing at)
 D.M. J/58, Mahalaxmi Approach Road)
 Tulsiwadi, Mumbai 400 034.)..PETITIONERS

VERSUS

- 1) The State of Maharashtra)
 through the Ministry of Urban Development)
 and the Ministry of Housing having its address)
 at Mantralaya, Mumbai 400 032)
- 2) The Municipal Corporation of Greater Mumbai)
 A statutory body constituted under the)
 provisions of Bombay Municipal Corporation)
 Act, 1881, having its address at Mahapalika)
 Marg, Mumbai 400 001)
- 3) The Slum Rehabilitation Authority)
 A body constituted under the provisions of)
 the Maharashtra Slum Areas (Improvement)
 Clearance and Redevelopment) Act, 1971)
 having its address at 5th Floor, Griha Nirman)

- Bhuvan, Bandra (East), Mumbai 400 051)
- 4) M/s Earth Estate Developers Private Limited)
 A Company incorporated under the Companies)
 Act, 1956 carrying on business as Builders)
 and Developers having its address at 20, Earth)
 House, 2/22, Babu Genu Road)
 Mumbai 400 004)
- 5) Jijamata Co-operative Housing Society)
 (Proposed) through its Promoters, having)
 its address at Jijamata Nagar, Tulsiwadi)
 Tardeo, Mumbai 400 034)
- 6) Mangal Shruti Gruha Nirman Private Limited)
 a Company incorporated under the Companies)
 Act, 1956 having its office at Akruiti Trade)
 Centre, Road No. , Marol, MIDC, Andheri (E))
 Mumbai 400 093)..

RESPONDENTS

Mr Prakash Shinde i/b Mr P G Desai for the Petitioners.
 Mr R M Kadam, Advocate-General, a/w Mr Pradeep Jadhav,
 Assistant Government Pleader, for the State.
 Mr K K Singhvi, Senior Counsel, a/w Ms S M Modle for the
 Municipal Corporation of Greater Mumbai.
 Mr J G Reddy for Slum Rehabilitation Authority.

**CORAM : SWATANTER KUMAR, C J,
 DR. D Y CHANDRACHUD AND
 S C DHARMADHIKARI, JJ.**

**JUDGMENT RESERVED ON : 5TH DECEMBER 2008
 JUDGMENT PRONOUNCED ON : 18TH DECEMBER 2008**

JUDGMENT (PER SWATANTER KUMAR, C.J.)

In furtherance to the directions contained in the Full Bench Judgment dated 1st November 2007 of this Court in the case of *Tulsiwadi Navnirman Co-operative Housing Society Ltd. vs The State of Maharashtra and Others*, **Writ Petition No.1326 of 2007** reported in **2007 (6) MLJ 851**, the State Government issued Government Resolution No. Petition 2007/CR-261/Slum-1 dated 15th November 2007 and constituted a High Power Committee consisting of the following high ranking officers of the State :-

- | | | | |
|------|--|-----|----------|
| i) | Principal Secretary (Housing) | ... | Chairman |
| ii) | Metropolitan Commissioner of MMRDA | ... | Member |
| iii) | Commissioner, Brihanmumbai Municipal Corporation | ... | Member |
| iv) | Chief Executive Officer, SRA | ... | Member |
| v) | Vice President and C.E.O. , MHADA | ... | Member |

2. Different Benches of this Court, while following the Full Bench Judgment of the Court, disposed of Petitions with a direction to

the parties to approach the High Power Committee and even otherwise some of the Applicants had approached the High Power Committee for redressal of their grievances.

3. The present Notice of Motion has been taken out on behalf of the State praying that, for the reasons stated in the affidavit in support of the Application, it is necessary to seek variation of the Judgment dated 1st November 2007 and they be directed to create four new Grievance Redressal Committees to hear such matters. It is stated that number of matters are being referred to the High Power Committee and there is a back log. Therefore, it is necessary for the Government to delegate the powers exercisable by the High Power Committee to the new Committees.

4. Notice of this Application was issued to the Petitioners and the learned Counsel appearing for the parties were heard at some length. Schedule-I to this Application proposes creation of new Grievance Redressal Committees each headed by an Additional Municipal Commissioner of Municipal Corporation of Greater Mumbai

and representatives from various authorities and these Committees propose to meet two days a week.

5. It needs to be noticed that the High Power Committee is vested with vast powers and is performing quasi-judicial functions. It is determining not only the rights and obligations between the parties in relation to slum rehabilitation schemes but even other commercial transactions which have far reaching consequences and repercussions. The very purpose of constituting the High Power Committee was to ensure that Officers of senior rank from different Organizations are able to sit together, work collectively and in full co-operation with each other, while also ensuring that the matters are dealt with and disposed of expeditiously. The question of delegating such powers would not arise. That is neither the scope of the Full Bench Judgment of this Court nor would it be, in the larger public interest, advisable. Performance of such duties which are to deal with matters involving high stakes on the one hand and on the other hand have a direct impact on the development of the city, have to be examined and determined by very responsible persons of appropriate

stature in the hierarchy of the State administration. It would not be advisable to leave matters of such importance involving complex issues except to the officers of responsible positions who would have the expertise to deal with such complex issues. The collective participation of Brihanmumbai Municipal Corporation, Slum Rehabilitation Authority (SRA), Maharashtra Housing and Area Development Authority (MHADA) and Mumbai Metropolitan Regional Development Authority (MMRDA), is otherwise absolutely essential as the development schemes travel through all these Departments before the same can be implemented. To permit delegation of such power would neither be just nor fair in accordance with the scheme of the various statutory provisions as well as the Full Bench Judgment of this Court which has been accepted and implemented by the State without any reservation.

6. However, the request of the State to constitute another Committee appears to be a fair request. This additional High Power Committee could be constituted while nominating persons of high stature and acumen from the various public Departments to deal with

such issues. Thus, State may constitute another High Power Committee consisting of the following :

- i) Secretary, Housing and Special Assistance Department, State of Maharashtra.
- ii) Additional Municipal Commissioner, Brihanmumbai Municipal Corporation belonging to the IAS cadre to be nominated by the Municipal Commissioner.
- lii) One Senior Officer of IAS cadre from Maharashtra Housing & Area Development Authority.
- iv) One Senior Officer of IAS cadre from Mumbai Metropolitan Regional Development Authority.
- v) One Deputy Chief Engineer to be nominated by the CEO of the Slum Rehabilitation Authority.

7. While declining permission to the Government to constitute four sub-Committees and delegate these powers, we permit the Government to constitute another High Power Committee, in addition to the existing one, as afore-indicated and notify the same forthwith. We are informed that in the last year, the Committee has been able to dispose of only 42 applications/cases and large number of cases are pending and have not even been taken up for hearing as

yet. We direct that each of the High Power Committees shall meet twice a week for hearing of the matters till the pendency of the cases is brought to an appropriate level. We further direct that the days and timings of their hearings shall be publicly declared so that the parties are aware as to which day and what time their cases would be taken up for hearing. We also direct the State of Maharashtra as well as the High Power Committees to create their own website where the orders passed by the High Power Committees, the dates of hearing and the stage of the proceedings should be available. All the Departments including the nominated Officers shall ensure compliance of the directions and would fully co-operate and produce relevant records before the High Power Committees on the date of hearing.

8. Notice of Motion disposed of accordingly. No order as to costs.

CHIEF JUSTICE

Dr. D.Y. CHANDRACHUD, J.

S. C. DHARMADHIKARI, J.