
(2009) 12 SC CK 0026

In the Supreme Court Of India

Case No : Civil Appeal No"s. 8418-8420 of 2009 (Arising out of SLP (C) No"s. 34060-34062 of 2009)

Keya Developers and Cons. Pvt. Ltd.

APPELLANT

Vs

The Chief Executive Officer, SRA and Others

RESPONDENT

Date of Decision : 16-12-2009

Acts Referred:

Citation : (2010) 2 BomCR 77 : (2009) 15 JT 354 : (2009) 14 SCALE 613 : (2010) 2 SCC 261

Hon'ble Judges : Tarun Chatterjee, J;S. S. Nijjar, J

Bench : Division Bench

Advocate : Mukul Rohatgi N.P., Pravin H. Parekh, Prateek Jalan, Siddharth Bhatnagar, Sonia Dube, Prujanka, for Legal Options, Sameer Parekh, Sumit Goel, Shakun Sharma, Somanadri G., for Parekh and Co., Sanjay Kharde and Chandan Ramamurthi, for the Appellant;

Final Decision : Disposed Of

Judgement

1. Leave granted.

2. Heard Mr. Mukul Rohatgi, learned senior counsel appearing for the petitioner and Mr. K.K. Venugopal, learned senior counsel appearing for respondent No. 3.

3. Only short issue involved in these appeals is with regard to interpretation of the directions issued by this Court by its order dated 7th November, 2006 in I.A. Nos. 2-5 & 8 in SLP (C) No. 10281 of 2006. It is submitted by Mr. Mukul Rohatgi, learned senior counsel appearing for the appellant that the order passed by the High Court of Bombay in Writ Petition Nos. 1589/2007, 1075/2007 and 1036/2007 on 17th of September, 2009 is contrary to the directions issued by this Court in the aforesaid order dated 7th November, 2006. In order to appreciate the submissions made by Mr. Rohatgi, it would be necessary to reproduce the directions issued by this Court in the order dated 7th November, 2006 and the directions issued by the High Court in the impugned order dated 17th of September, 2009. On 7th November, 2006, this Court inter alia directed

as follows:

As directed by the order in Writ Petition No. 988 of 2004 dated 11.03.2005 and order dated 04.05.2006 in Writ Petition No. 1277 of 2006 the SRA is directed to call the two developers, namely M/s. Keya and M/s. Sigtia and dispose of their application for issuing the Letter of Intent and to pass appropriate orders and in accordance with Maharashtra, Slum Areas Improvement, Clearance and RE-development Act, 1971 and also strictly following the procedure for submission processing and approval of Slum Rehabilitation Scheme and to Award the Letter of intent to the developer who satisfies the required qualifications and conditions and regulations and the provision of the Act, 1971.

4. Whereas in the impugned order dated 17th September, 2009, the High Court has directed as follows:

In our opinion, the impugned order is liable to be quashed and set aside. Accordingly, the impugned order is quashed and set aside. Matter is remanded to the SRA. The SRA to decide the proposal of M/s. Sigtia Developers in terms of the order dated March 11, 2005 passed in Writ Petition No. 988 of 2004 as also the order dated May 4, 2006 passed by this Court in Writ Petition No. 1277 of 2006, and the order dated November 7, 2006 passed by the Apex Court in SLP No. 10281 of 2006, and on the basis of the record as it stands today, as expeditiously as possible, and in any case within a period of three months from today. All contentions of the parties are expressly kept open. The SRA will consider the contentions of the parties and will record reasons and give findings. While considering the proposal of M/s. Sigtia Developers, the SRA will consider the objections of M/s. Keya Developers, as also of the Society, Mr. Jagtap and Ors. and Mr. Mane. If the SRA decides not to issue LOI in favour of M/s. Sigtia Developers, it will be open for the parties to submit fresh development Scheme as observed by this Court in paragraph No. 20 of the judgment and order dated March 11, 2005 in Writ Petition No. 988 of 2004. Rule is made absolute in all the Petitions.

5. Perusal of the above would show that the order passed by the High Court makes a significant departure from the directions issued by this Court. It appears to give impression that the SRA is to decide only the proposal of M/s. Sigtia Developers, whilst taking into consideration the objection of M/s. Keya Developers. We are of the considered opinion that by order dated 7th November, 2006, this Court had very clearly directed the SRA to consider the proposals of M/s. Sigtia Developers and M/s. Keya Developers. The applications of both the Developers for issuance of a Letter of Intent are to be considered by SRA in accordance with the Maharashtra, Slum Areas Improvement, Clearance and RE-development Act, 1971. In other words, the SRA is required to consider the claim of both the Developers in accordance with law. Mr. Rohatgi had taken serious objections to the observations made by the High Court in paragraph 30 of the impugned order, where it is observed as follows:

It is thus clear that the first issue that the SRA was to consider is whether M/s. Sigtia is entitled to issuance of Letter of intent. No doubt as per the order of the Supreme Court M/s. Keya Developers will also have to be heard on that issue, but there is no question of the issue whether M/s. Keya Developers is entitled to Letter of Intent being considered unless and until the SRA comes to the conclusion that M/s. Sigtia is not entitled to get the Letter of Intent. In other words, the SRA will have to first hear the parties on the issue whether M/s. Sigtia is entitled to Letter of Intent. If the SRA comes to the conclusion that M/s. Sigtia is entitled to Letter of Intent, then that will be the end of the matter, and the order of this Court and the order of the Supreme Court will stand complied with. However, in case the SRA comes to the conclusion that M/s. Sigtia is not entitled to issuance of Letter of Intent then it will have to take up the issue whether M/s. Keya Developers is entitled to issuance of Letter of Intent for consideration. The application of M/s. Sigtia will have to be heard and considered first, and it is only thereafter depending on the result of that application, that the application of M/s. Keya Developers can be considered, assuming that M/s. Keya Developers has made any such application because we have recorded a finding above that no complete application submitted by M/s. Keya Developers is on the original record. No doubt, while considering the question whether M/s. Sigtia is entitled to issuance of Letter of Intent, the question whether the agreement in favour of M/s. Sigtia has been validly terminated or not will have to be considered.

6. These observations certainly tend to give the impression that M/s. Keya Developers is to be considered, only in case the Letter of intent is not issued in favour of M/s. Sigtia Developers. Thus, in our opinion, it is necessary to reiterate the directions issued by this Court in the order dated 7th November, 2006, which clearly directed the SRA to call the two Developers and dispose of their applications for issuance of the Letter of Intent and pass the appropriate order in accordance with law. It was further directed that the SRA shall strictly follow the procedure for submission processing and approval of Slum Rehabilitation Scheme. Further direction was also issued to award the Letter of Intent to the Developer who satisfies the required qualifications and conditions. We are informed that the time granted by the High Court, in the order dated 17th September 2009, to SRA for taking a decision has now expired. We, therefore, direct that the SRA shall now take a decision within 15 days, from today.

7. The impugned order passed by the High Court is modified to the extent indicated above and the appeals are disposed of accordingly with no order as to costs.