IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2246 OF 2023

Renaissance Buildcon .. Petitioner
Versus
The Chief Executive Officer SRA & Ors. .. Respondents

WITH
WRIT PETITION NO.2247 OF 2023
WITH
INTERIM APPLICATION NO.2645 OF 2020

Ekta MJP CHS and Ors. .. Petitioners
Versus
The Chief Executive Officer SRA & Ors. .. Respondents

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- Mr. Ravi Kadam, Senior Advocate with Mr. S. G. Surana i./by Madhur Surana, Advocates for Petitioner in Writ Petition No.2246 of 2023.
- Mr. Ashish Kamat, Senior Advocate with Mr. C. N. Gole, Advocate for Petitioner in Writ Petition No.2247 of 2023.
- Mr. Jagdish G. Aradwad a/w. Ms. Aswini Jadhav, Advocates for Respondent No.1 – SRA.
- Mr. Hemant Ghadigaonkar, Advocate for Respondent No.5.
- Mr. Firoz Bharucha a/w. Ziyad Madon, Ravi Gandhi, Rashmin Jain and Mr. Prathmesh Jadhav i./by Kanga & Co., Advocates for Respondent No.7.
- Mr. Vijay Patil, Advocate for Respondent No.8 – AGRC.
- Mr. Anil Sakhare, Senior Advocate a/w. Mr. Sagar Patil and Ms. Shilpa Puranik, Advocate for Respondent No.2 – MCGM.

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CORAM : MILIND N. JADHAV, J.
DATE : JUNE 10, 2024.

JUDGMENT:

1. This Writ Petition challenges the legality and validity of the judgment and order dated 23.03.2020 passed by the Apex Grievance

Redressal Committee (for short '**AGRC**') – Respondent No.8. By the said judgment and order Application No.295 of 2019 filed by M/s. Krish Developers (Respondent No.7) came to be allowed. This Application No.295 of 2019 was filed before Respondent No.8 to challenge the order dated 19.04.2018 passed by the Chief Executive Officer – Slum Rehabilitation Authority (for short '**SRA**') Respondent No.1 terminating appointment of Respondent No.7 as Developer under Section 13(2) of Maharashtra Slums Areas (Improvement, Clearance and Redevelopment) Act, 1971 (for short '**the said Act**') on several grounds and directing the concerned Societies to appoint a new Developer within 90 days. By virtue of the impugned judgment dated 23.03.2020, Respondent No.8 cancelled all permissions and No-Objection Certificate obtained by Petitioner from Respondent No.1 who was appointed by the concerned Societies as the New Developer.

2. Brief facts, *inter alia*, leading to the impugned judgment are required to be considered for adjudication. They are briefly stated hereinunder:-

2.1. Respondent No.2 is the Municipal Corporation of Greater Mumbai (for short '**MCGM**'). It is owner of Municipal property i.e. land parcel namely City Survey No.1928 Part and 10/1928 of Byculla Division admeasuring near about 15681.82 square meters situated at Byculla (W), Mumbai. This land parcel has certain structures housing

municipal tenants. That apart there exists slum structures also on this land parcel. Respondent No.3 namely Ekta MJP Co-operative Housing Society is the Society formed by the tenants / occupants of the aforesaid Municipal property. Initially Respondent No.4 - Ekta Cooperative Housing Society and Respondent No.6 – Mahatma Jyotiba Phule Nagar Cooperative Housing Society were two proposed Societies formed by tenants / occupants of the Municipal property which merged into Respondent No.3 – Society. Respondent No.5 namely Ekta Estate Cooperative Housing Society is another proposed Society which was never in existence earlier but claims to represent some of the tenants / occupants. Respondent No.7 is a Developer - partnership firm so also, Petitioner is a Developer - partnership firm.

2.2. The Municipal property which is the subject matter of present Petition and described hereinabove is occupied by old Municipal Buildings / Chawls / structures occupied by Municipal tenants and the appurtenant area around the said Municipal buildings is inundated with slum structures and Chawls and qualifies as a dense slum. In view of this peculiarity re-development of the Municipal Building / structures under Regulation No.33(7) and of the slum structures / slum area under Regulation No.33(10) is not possible separately. Hence it requires combined re-development under both the aforesaid provisions as provided in clause 7.1 of Regulation No.33(10) of DCPR-2034. Guidelines for such redevelopment are clearly

described. There is no dispute about these facts, Guidelines and procedure. In terms of area and number of structures, the Plot admeasures 10,525 square meters. There are 11 Municipal tenanted buildings and 4 Municipal land tenanted vacancies housing a total number of 277 tenants. The Municipal buildings are constructed much prior to the year 1969 and are in a dilapidated condition. In the sanctioned development plan the said plot is reserved for Municipal Housing. The area occupied by the 11 Municipal tenanted building and land tenanted vacancies is 1898.04 square meters whereas the area occupied by slum / hutments is 1681.9 square meters.

2.3. On 15.12.2005, tenants / occupants and slum dwellers formed Respondent No.6 – Society and appointed one M/s. Riddi Siddhi Developers as Developer and submitted their re-development scheme under Regulation No.33(7) to the Estate Department of MCGM. Simultaneously, on 23.04.2006, slum dwellers / tenants and occupants of Municipal buildings and Chawls formed Respondent No.4 – Society and appointed Respondent No.7 as their Developer. On 25.08.2006, Respondent No.7's proposal of Slum Rehabilitation Scheme under DCR 33(10) made on behalf of Respondent No.4 – Society was accepted by Respondent No.2 – MCGM. It is Petitioner's case that Respondent No.7 did not adhere to the guidelines prescribed by Respondent No.1 – SRA for re-development of the Municipal tenanted properties under Regulation No.33(7) and did not obtain No-

Objection Certificate from Respondent No.2 – MCGM. On 12.09.2006, draft Annexure-II of Respondent No.4- Society was forwarded by Deputy Collector, SRA to Assistant Commissioner (E-Ward) and Competent Authority of MCGM for certification. This draft Annexure-II was only in respect of slum dwellers on the property occupied by the Municipal buildings and its appurtenant areas and 277 municipal tenants in those buildings were infact not included. On 15.01.2007, the Architect of Respondent No.7 requested the Assistant Commissioner of MCGM to include the 277 Municipal tenants residing the municipal buildings and Chawls in the proposal submitted by Respondent No.7 for redevelopment. The Municipal Corporation through Assistant Commissioner, Estate informed Respondent No.7 and its Architect that such request can be considered or agreed with terms and conditions after declaration of the land under Municipal tenanted buildings as slum area and called upon Respondent No.7 to submit consent of tenants alongwith registered undertaking. On 18.08.2009, Respondent No.7 filed Writ Petition No.1550 of 2009 in this Court seeking directions to MCGM to issue Annexure – II. The Writ Petition was disposed with a direction to MCGM to consider and hear the request made by Respondent No.7 and pass appropriate orders within a period of eight weeks. Respondent No.7 did not submit the consent of 70 percent of Municipal tenants and instead filed Writ Petition in this Court without impleading the SRA as party to the

Writ Petition. In the meanwhile, pursuant to order passed in the Writ Petition filed by Respondent No.7 directing MCGM to consider its request, Competent Authority of MCGM by order dated 09.09.2009 rejected the request of Respondent No.7 for issuance of Annexure-II on the ground that it failed to comply with the statutory requirements, namely filing of registered undertakings and proper consents of the Municipal building tenants.

2.4. Being aggrieved Respondent No.7 filed another Writ Petition No.313 of 2010 in this Court, once again seeking direction from issuance of Annexure-II and requisite permissions on the proposal submitted. On 23.06.2010, this Court directed MCGM to take a decision for issuance of Annexure-II subject to compliance with all requirements by Respondent No.7. Pursuant to directions of this Court, joint meeting was conducted by the MCGM for considering re-development jointly under DCR 33(7) and DCR 33(10) provided Respondent No.7 - Developer aggreed to submit the required documents and consents. Though at that time, Respondent No.7 claimed to have consents of 70% tenants, as per record consents of 74 Municipal tenants out of 278 Municipal tenants were submitted by him. This Court granted extension of time to the Corporation to consider the proposal of Respondent No.7 since the required consents were not submitted. On 07.08.2010, Assistant Commissioner (E-Ward) and Competent Authority of MCGM forwarded a list of 523 slum

dwellers residing on the said property for deciding their eligibility as per DCR 33(10) to the Deputy Collector of SRA. Since the process was not completed, parties decided to seek extension of time from this Court to complete the process. Respondent No.7 agreed to the same. At that time, Assistant Commissioner (E-Ward) was in receipt of Application of 180 Municipal transfer cases and these transfer cases were required to be updated. From this point of time until the date of termination of Respondent No.7 by SRA on 19.04.2018, the Respondent No.7 did not comply with this specific requirement of updating the pending transfer cases, completing the process of tenancy verification and submitting their consents to the Assistant Commissioner, Estate for certification of draft Annexure-II of the Municipal tenants residing in the Municipal tenanted buildings on the said plot.

2.5. On 30.08.2010, Respondent No.7 submitted a representation to SRA for issuance of LOI for joint development under DCR 33(7) and 33(10) by proposing to amalgamate the Municipal property / Plot alongwith the slum area for which Respondent No.6 – Society had appointed another Developer namely M/s. Riddhi Siddhi Developers by claiming that the said Developer appointed by Respondent No.6 was an associate of Respondent No.7. On 08.10.2010, Respondent No.1 – SRA approved the Letter of Intent (LOI) subject to obtaining Annexure-III from the Financial Controller (SRA) i.e. FC(SRA) before issuance of

LOI. On 14.10.2010, Respondent No.1 issued LOI to Respondent No.7 in respect of the entire property comprising of the Municipal tenanted buildings and the slum area. This LOI reflects the name of Respondent No.4 and Respondent No.6 – Societies. On 30.11.2010, Respondent No.7 requested Respondent No.1 – SRA to issue revised LOI and IOA without complying with the mandatory requirement of obtaining Annexure-III. On 06.01.2011, Respondent No.1 – SRA issued IOA for rehab building No.1 for construction of 128 rehab tenements. Once again condition No.41 in this IOA required Respondent No.7 to obtain Annexure-III from FC(SRA) before grant of Commencement Certificate. On 01.03.2011, Respondent No.1 was granted permission to construct 200 transit tenements. At that time, Respondent No.7 paid rent for 11 months to 60 tenants / occupants who had by that time vacated their dilapidated structures but since Respondent No.7 did not pay further rent thereafter, these 60 tenants / occupants re-occupied their tenements by repairing it themselves. On 20.04.2011, Respondent No.1 issued revised LOI in favour of Respondent No.7 – Developer. In this revised LOI, the name of Respondent No.5 namely Ekta Estate Cooperative Housing Society was reflected for the first time without appending any resolution of this Society; the list of members of the Society or relevant documents pertaining to formation of this proposed Society. It is pertinent to note that this revised LOI was issued without obtaining certified Annexure-II, the No-Objection Certificate from

MCGM and the certified Annexure-III from FC – SRA.

2.6. At this time on 29.01.2011, due to collapse of *chhajja* of building No.3 and 4 of the Municipal buildings, one minor girl of 4 years lost her life and 6 other persons were injured. In the pending Writ Petition No.313 of 2010, MCGM filed additional affidavit on 29.06.2021 placing on record the fact of non-compliance of mandatory requirements of obtaining the consents of tenants / occupants. On 13.06.2011, the Municipal Commissioner of MCGM objected to sanctioning of scheme by Respondent No.1 – SRA without obtaining Annexure-II and No-Objection Certificate from MCGM for re-development under 33(7) and without submitting Final Annexure-II for the slum area. This objection was raised by MCGM before the Principal Secretary, Housing Department, State of Maharashtra. On 18.06.2011, the Housing Department considered the letter of Objection addressed by the Municipal Commissioner and converted it into an application (No.240 of 2011) and ordered *status quo* until further orders of this Court in Writ Petition No.313 of 2010. It was observed that Respondent No.1 – SRA issued the LOI to Respondent No.7 on the basis of incomplete documents.

2.7. On 11.07.2011, the Division Bench of this Court rejected the Respondent No.7's Writ Petition No.313 of 2010 and gave liberty to Respondent No.7 to challenge the decision taken by MCGM for re-

development of suit property under DCR 33(9) by inviting tenders. This is so because, Respondent No.2 – MCGM filed an affidavit in this Court in the above Writ Petition stating that considering the mixed profile of the property involved in re-development, the Corporation had taken a decision for undertaking re-development of the property housing the Municipal tenants in the buildings and the slum area under DCR 33(9) by inviting tenders.

2.8. On 18.10.2011, Respondent No.7 filed a fresh Writ Petition (2411 of 2011) challenging MCGM's decision to redevelop the property under DCR 33(9) by inviting tenders and once again sought directions to MCGM to issue Annexure-II. On 08.11.2013, Municipal Commissioner passed a speaking order directing the Assistant Commissioner and Competent Authority to verify eligibility of the slum dwellers as per the prevailing policy, determine the area under eligible slums after submission of new table survey plan, and prepare list of hutment dwellers with their consents and proofs / documents to be submitted by the Developer. For more than 6 years thereafter the Respondent No.7 did not comply with these requirements laid down by the Corporation to enable MCGM to issue Annexure-II. Hence on 16.04.2015, this Court rejected Writ Petition No.2411 of 2011 by observing that Respondent No.7 (the Petitioner therein) utterly failed to make out any case against the Corporation. Paragraph Nos.11, 12, 14, 15, 20 and 22 of the above order of this Court are most relevant

since while rejecting the Writ Petition, the Division Bench of this Court not only considered all facts regarding non-compliance of the requirements of the Corporation by Respondent No.7 but also considered the past litigation filed by Respondent No.7 and held that there was no merit in the contention raised by Respondent No.7. The Division Bench of this Court upheld the order dated 18.06.2011 and so observed in paragraph Nos.14 and 15 of the said judgment. In paragraph No.20, this Court observed that Respondent No.7 had absolutely no say in the matter and in paragraph No.22 it was constrained to observe that for the reasons best know to Respondent No.7, Respondent No.1 – SRA was not impleaded as a party to Writ Petition No. 2411 of 2011.

2.9. On 08.05.2015, Respondent No.7 made a fresh representation to the Corporation requesting to approve the joint scheme to re-develop the said plot under DCR 33(7) and DCR 33(10) in view of the issuance of LOI and revised LOI by SRA to Respondent No.7. Simultaneously, on 28.05.2015, Respondent No.7 filed Special Leave Petition in the Supreme Court to challenge the judgment and order dated 16.04.2015 dismissing the Writ Petition of Respondent No.7. Between 09.06.2015 and 01.08.2015, the Deputy Chief Engineer of the Corporation submitted a detailed report to the Municipal Commissioner through the Deputy Municipal Commissioner / Assistant Municipal Commissioner (E.S.) for undertaking re-joint development

of the entire Plot / property under the combined statutory provisions of DCR 33(7) and DCR 33(10) subject to issuance of Annexure-II for the Municipal building tenants by the Assistant Commissioner (Estate), completion of tenancy verification process and consent verification as per prevailing policy, preparation of revised Annexure-II for the slum area as per the revised cut-off date of 01.01.2000 to be issued by the Assistant Commissioner, (E-Ward) of MCGM. Legal opinion was obtained by MCGM on this report submitted by the Deputy Chief Engineer and it was opined that if the Corporation proposed to undertake re-development of the property under DCR 33(7) and 33(10) together, it would be appropriate to file a Notice of Motion in this Court and seek leave of the Court for such re-development. On 26.08.2015, the Corporation filed Notice of Motion (Lodging) No.528 of 2015 seeking permission for approval of re-development under combined DCR 33(7) and DCR 33(10) instead of DCR 33(9) only. On 22.09.2015, the Division Bench of this Court disposed of the Notice of Motion holding that the order dated 16.04.2015 passed by this Court while dismissing Respondent No.7's Writ Petition No.2411 of 2011 would not be an impediment for the Respondent No.2 Corporation to take a fresh decision in accordance with law.

2.10. On 16.10.2015, Respondent No.7 addressed a letter to Assistant Commissioner (E-Ward) of the Corporation placing on record order passed by this Court while disposing of Notice of Motion filed by

the Corporation and requested him to inform Respondent No.1 – SRA about confirmation of implementation of the combined scheme as already approved by the SRA. It is pertinent to note that Respondent No.7 construed that the order passed in the Notice of Motion permitted re-development under the combined scheme submitted by Respondent No.7 and approved by Respondent No.1 – SRA. It is further pertinent to note that at this juncture the requirement of obtaining Annexure-II and No-Objection Certificate from the Corporation by complying the requirements such as updation of transfer cases of large number of Municipal tenants, tenancy and consent verification of tenancy as per the prevailing guidelines for re-development under DCR 33(7) and compliance of Guidelines for re-development under DCR 33(10) were still required to be complied with and were not complied with by Respondent No.7. On 04.11.2015, the Assistant Commissioner (E-Ward) of MCGM addressed a letter to Respondent No.1 – SRA stating that it had no objection to allow Respondent No.7 to implement the scheme but with prevailing policy and rules as already approved by SRA. Whether this letter issued by the Assistant Commissioner (E-Ward) on 04.11.2015 can be construed as the No-Objection Certificate given by the Corporation for re-development to Respondent No.7 is one of the question raised in the present Writ Petition. This is so because Respondent No.8 in its impugned judgment relies upon this letter and construes it to be a No-Objection Certificate for re-

development given by MCGM to Respondent No.7. In view of this development, Respondent No.7 withdrew its Special Leave Petition filed in the Supreme Court on 30.11.2015.

2.11. On 06.01.2016, Executive Engineer of Respondent No.1-SRA issued a *suo moto* show cause notice seeking an explanation for the delay in implementation of the slum scheme. On 15.01.2016 and 20.01.2016, Respondent No.7 filed replies stating that the delay occurred due to pending litigation with MCGM. On 06.02.2016, Respondent No.7 addressed a letter to Assistant Commissioner, Estate of the Corporation requesting issuance of Annexure-II for the Municipal Building tenants and Annexure-II for the slum dwellers pertaining to Respondent Nos.4 and 6 – proposed Societies respectively. It is pertinent to note that instead of complying with the mandatory requirements, all that Respondent No.7 did was to correspond and write a letter without taking any efforts for seeking updation of the Municipal tenants transfer cases, to obtain tenancy consents and verification as per the prevailing guidelines etc. Since Respondent No.7 also requested for grant of No-Objection Certificate to construct a transit camp on a nearby property, Respondent No.1 had already approved plans for transit camps on the said property itself, but Respondent No.7 failed to construct the said transit camp for shifting the occupants therein. On 08.02.2016, the Assistant Commissioner (E-Ward) of Respondent No.2 forwarded a revised list

of 517 members in the proposal of Respondent No.4 – Society as per the eligibility deadline of 01.01.2000 to the Deputy Collector of Respondent No.1 – SRA. On 23.03.2016, Chief Executive Officer, SRA i.e. Respondent No.1 addressed a letter to Municipal Commissioner, MCGM requesting him to consider the request to allow construction of a transit camp on the neighboring plot belonging to the Corporation bearing City Survey No.1970. On 29.06.2016, MCGM directed Respondent No.7 to remove the hutments adjacent to the dilapidated Municipal building Nos.1 and 2 urgently. On 05.08.2016, Assistant Commissioner (E-Ward) of Corporation directed Respondent No.7 to undertake rehabilitation of hutment dwellers in view of the dilapidated condition of the Municipal buildings. On 01.06.2017, the Municipal Commissioner of MCGM granted approval for amalgamation and merging of the re-development scheme of Respondent No.4 and Respondent No.6 – Societies. While granting this approval it was categorically stated that Respondent No.7 will have to comply with all pending requirements as per the prevailling Guidelines. These requirements included completion of Annexure-II of Municipal tenants by completing the process of pending Municipal tenancy transfers and consent verifications, preparation of Annexure-II of slum dwellers as per the prevailing guidelines etc. A reminder letter was addressed on 01.07.2017 by the Assistant Commissioner (Estates) of Corporation to Respondent No.7 to comply with the pending requirement namely

obtaining Annexure-II by completing the process of tenancy transfers and consent verification, vacating dilapidated building Nos.1 and 2 immediately by shifting the occupants either by paying rent or by giving alternate accommodation. It is pertinent to note that none of these requirements were complied by Respondent No.7 until its termination in the year 2018. On 15.07.2017, Assistant Engineer of Respondent No.1 addressed a letter to Respondent No.7 seeking explanation for delay in implementation of the re-development scheme. On 21.08.2017, the Assistant Engineer of Respondent No.1 – SRA once again issued a reminder letter to Respondent No.7 followed by further reminders on 15.09.2017, 19.09.2017, 16.10.2017 and 09.11.2017. Respondent No.7 on receiving the above letters, issued vague replies dated 13.09.2017 and 26.09.2017 and 30.10.2017 stating that it was in discussion with the committee members to shift them to an alternate accommodation and protracted the redevelopment process without taking any concrete steps.

2.12. In view of the above inaction on the part of Respondent No.7 Executive Engineer of Respondent No.1 – SRA by letter dated 11.12.2017 requested the Deputy Collector of Respondent No.1 – SRA to initiate action under Section 13(2) of the said Act against Respondent No.7 - Developer. Despite Respondent No.7 having been called to submit its explanation for the delay to the Respondent No.1 – SRA, Respondent No.7 kept on corresponding with the Corporation

and the SRA. On 20.01.2018, Respondent No.1 issued the statutory notice to Respondent No.7 intimating that a last chance was given to Respondent No.7 to represent its case failing which the proposal submitted by Respondent No.7 will be recorded. In reply to this notice, Respondent No.7 submitted letter dated 31.01.2018 without offering any explanation as to why it was not able to implement the slum rehabilitation scheme and comply with the statutory requirements. Thereafter a meeting was held on 01.02.2018 under the chairmanship of DMC (Imp.) of the Corporation alongwith Respondent No.7 and Respondent No.7 was directed to offer rent cheques or temporary alternate accommodation within three days to the tenants of the Municipal buildings which were completely dilapidated and on verge of collapse. It was also intimated that if tenants refused the accept the rent or vacate the buildings then the rent cheques be submitted with the Assistant Commissioner (E-ward) of the Corporation upon which he would initiate action by following the due process of law against the dissenting tenants. On 21.02.2018, Respondent No.7 addressed a letter to DMC (Imp.) informing that some of the tenants refused to vacate their premises in building Nos.1 and 2. On 27.02.2018, Assistant Commissioner informed Respondent No.7 to comply with the directions which were issued but Respondent No.7 failed to comply with the same. Neither Respondent No.7 got the dilapidated Municipal buildings vacated by paying rent nor any steps were taken for vacating

the said buildings.

2.13. In the above background Respondent No.1 issued show cause notice on 31.03.2018 to Respondent No.7, its Architect, Respondent No.4, Respondent No.6 and the Assistant Commissioner (E-Wards) and Assistant Commissioner (Estates) of Corporation under Section 13(2) of the said Act and scheduled a hearing on 12.04.2018. On 19.04.2018, Respondent No.1 passed a judgment terminating Respondent No.7 as Developer under Section 13(2) of said Act on 13 grounds and directed Respondent Nos.4 and 6 to appoint a new developer within 90 days after hearing the parties.

2.14. On 12.05.2018, Respondent Nos.4 and 6 - Societies conducted a Special General Body Meeting in the presence of the authorized officer of Respondent No.1 – SRA and passed appropriate resolutions amalgamating Respondent Nos.4 and 6 – Societies into Respondent No.3 – Society and appointed Petitioner as Developer. On 11.07.2018, Respondent No.3 – Society executed a fresh Development Agreement, Power of Attorney and consents of Municipal buildings tenants, slum dwellers and vacant land tenants in favour of Petitioner. On 16.07.2018, Petitioner submitted proposal to Respondent No.1 as per the prescribed procedure enumerated in Circular No.144 of SRA. Between 18.09.2018 and 06.10.2018, the five concerned departments of Respondent No.1 SRA issued their NOCs in favour of Petitioner. On

16.10.2018, Respondent No.1 accepted Petitioner's proposal and Petitioner paid LOI Scrutiny fee of Rs.11,000/-. On 22.11.2018, the Deputy Collector of Respondent No.1 - SRA forwarded proposal of draft Annexure-II received from Respondent No.3 – Society to the office of Assistant Commissioner (E-Ward) and Competent Authority of the Corporation. On 14.01.2019, survey of the slum area was carried out by the office of Assistant Commissioner (E-Ward) and Competent Authority of Corporation as per procedure prescribed in Government Resolution dated 17.01.2008 issued by the Housing Department of State of Maharashtra read with Circular dated 10.09.2015 issued by the Corporation. Between 23.01.2019 and 24.01.2019, inventory and tenancy verification of Municipal tenants under DCR 33(7) was completed by the Assistant Commissioner (E-Ward) as per the prevailing guidelines dated 10.10.2016 issued by the Corporation with the assistance of Petitioner. On 30.04.2019, Assistant Commissioner (E-Ward) of Corporation published provisional Annexure-II and invited objections. On 06.06.2019, Assistant Commissioner (E-Ward) of the Corporation submitted the report on tenancy verification of Municipal Tenants under DCR 33(7) and submitted draft Annexure-II of slum dwellers for issuance of No-Objection of Corporation for re-development scheme proposed to be implemented through the Petitioner. It is pertinent to note that Petitioner i.e. new Developer appointed by Respondent No.3 – Society was instrumental in updating

and regularizing the long pending Municipal Tenancy transfer cases of more than 200 Municipal tenants by paying all dues of the Corporation on their behalf and also simultaneously complied with all requirements for obtaining Annexure-II of Municipal tenants and slum dwellers and No-Objection Certificate of the Corporation as per the prescribed procedure within a period of 1 year of its appointment which could not be achieved by the Respondent No.7 during a span of more than 12 years. On 20.08.2019 and 21.08.2019, the entire verification process was carried in the presence of the Consent Verification Committee headed by DMC (Z-I) of the Corporation. On 09.10.2019, Consent Verification Committee completed the verification process and prepared its report confirming that 51 % of the Municipal tenants had granted their consent to the Municipal Commissioner. On 11.10.2019, Assistant Commissioner (E-Ward) submitted its status report to Respondent No.1 – SRA regarding submission of Annexure-II of the Respondent No.3 – Society through the new Developer i.e. Petitioner. Copy of the same was also endorsed and submitted to the Housing Department of the State Government with reference to letter dated 07.09.2019. On 05.05.2020, Assistant Commissioner (Estate) of the Corporation scrutinised the proposal and prepared the Annexure-II for the Municipal tenants and occupants and forwarded the same to the DMC (Imp.) who carried out the technical scrutiny of the said proposal and submitted his report to the Technical Commissioner (Estate). On

15.05.2020, Assistant Commissioner (Estates) submitted his report to the Joint Municipal Commissioner for obtaining sanction of the Competent Authority for issuance of No-Objection Certificate to issue Annexure-II and No-Objection Certificate for the Municipal tenant and occupants.

2.15. In the meanwhile, instead of challenging the impugned judgment and order passed by Respondent No.1 - SRA, Respondent No.7 for period of more than 1 year and 6 months did not take any steps and approached Hon'ble Minister and requested issuance of direction to Respondent No.1 to reconsider termination of Respondent No.7. By order dated 03.09.2019, the then Minister, Housing Department of the State Government held a meeting and directed Respondent No.1 to reconsider the order passed under Section 13(2) of the said Act and stayed the appointment of the new Developer i.e. Petitioner. It is pertinent to note that such an application / appeal could not have been entertained by the Hon'ble Minister, Housing Department as it has no power or jurisdiction to entertain such an appeal or application challenging an order passed under 13(2) of the said act. On 19.09.2019, Respondent No.7 filed Writ Petition (Lodging) No.2704 of 2019 in this Hon'ble High Court and challenged the order passed under Section 13(2) of the said Act. On 17.10.19 Respondent No.7 withdrew its Writ Petition with liberty to approach Respondent No.8 – AGRC and more specifically in view of the order

dated 03.09.2019 passed by the Hon'ble Minister Housing Department. On 22.10.2019, Respondent No.7 filed Application No.295 of 2019 before Respondent No.8 – AGRC to challenge its termination order dated 19.04.2018. This application was filed after a lapse of one year and six months without seeking condonation of delay. It is pertinent to note that Respondent No.7 did not implead Respondent No.3 - Society in the present application. Respondent No.3 – Society therefore filed an intervention application before the AGRC which was allowed. AGRC heard all parties on 07.02.2020. On 23.03.2020 statewide lockdown was declared by the Government due to COVID-19 Pandemic. On 08.06.2020, Respondent No.8 – AGRC uploaded on its website the impugned judgment and order dated 23.03.2020. By virtue of the said impugned judgment, Respondent No.8- AGRC set aside the order and judgment dated 19.04.2018 passed by Respondent No. 1 terminating appointment of Respondent No.7 as Developer and gave further directions to be complied with. It also cancelled all subsequent permissions and No-Objection Certificate obtained by the Petitioner despite there being no such prayer sought for by Respondent No. 7 in its Application No. 295 of 2019. Effectively, Petitioner's appointment stood cancelled.

2.16. Being aggrieved Petitioner filed the present Writ Petition as also Respondent No.3 filed a companion Writ Petition to challenge the impugned judgment and order dated 23.03.2020. On 03.07.2020

status quo order was passed by this Court. Parties completed their pleadings by filing affidavit-in-reply, rejoinder in the principal Writ Petition as also, in the interim applications.

3. Mr. Kadam appearing on behalf of Petitioner (new developer) after taking me through the exhaustive list of dates and events has made the following submissions:-

3.1. That Respondent No.1 issued LOI dated 14.10.2010 and revised LOI on 20.04.2011 in favour of Respondent No.7 for redevelopment of the said property despite which for a period of more than 7 years, no steps were effectively taken by Respondent No.7, resultantly leading to issuance of show case notice dated 31.03.2018. That in view complete omission on the part of Respondent No.7 its appointment as Developer stood terminated under Section 13(2) of the said Act. That despite being aware about the termination decision dated 19.04.2018, Respondent No.7 filed Application No.295 of 2019 before Respondent No.9 - AGRC after a lapse of 1 year and six months thus exhibiting its protracting conduct. The said application was filed under Section 35(1) of the said Act and ought to have been filed within the limitation of 30 days as prescribed in the said provision. Notwithstanding the fact that the said application was filed without even seeking condonation of delay and after 1.5 years, Respondent No.8 - AGRC still allowed the Application without the delay being

condoned. He would submit that Respondent No.8 - AGRC does not have the authority and jurisdiction to entertain such a belated application filed by Respondent No.7 without seeking condonation of delay. He would submit that the said application does not even plead about limitation and/or the delay of 1 year and 6 months caused and does not offer any explanation for the same. He would therefore urge that the impugned order passed by Respondent No.8 - AGRC is in complete violation of the provisions of Section 35(1A) of the said Act and without referring to the merits of the case deserves to be quashed and set aside in *limine* on this legal ground.

3.2. He would next argue that the dates and events clearly show that Respondent No.1 approved the slum scheme of Respondent No.7 in respect of the said property without approval of Annexure-III by the FC (SRA). He would submit that without such approval of Annexure-III as to whether the Respondent No.7 has the financial wherewithal to undertake the project, LOI dated 14.10.2010 and revised LOI dated 20.04.2011 were issued in favour of Respondent No.7. He would submit that LOI can only be issued after approval of Annexure-III by FC (SRA) certifying that the Developer undertaking the SR project is financially capable to complete the slum scheme. In view of this, he would contend that LOI and revised LOI in favour of Respondent No.7 were itself bad in law. He would draw my attention to the decision of the HPC dated 15.09.2012 passed on an application filed by a Society

called as Manurwadi CHS being Application No.484 of 2011 challenging issuance of LOI without approval of Annexure-III. This decision of the HPC (now AGRC) is appended at Exhibit "RRR" to the Writ Petition. He would contend that in that case the high power committee held that SRA cannot sanction the scheme without approval of Annexure-III and in view thereof quashed and set aside the LOI granted by SRA to the Developer in that case. He would submit that facts in the present case are almost identical to that case and hence no different view can be taken. He would submit that Petitioner has referred to and relied upon the aforesaid decision passed in Application No.484 of 2011, dated 15.09.2012 in its pleadings and written submission filed before Respondent No.1 – AGRC which has been conveniently ignored and not considered. He would therefore submit on this ground also the impugned order is not sustainable and deserves to be set aside.

3.3. He would next submit that in the instant case the said property is occupied by Municipal Building / Chawls / structures which are in occupation of Municipal tenants / occupants and vacant land tenants (VLT) and land appurtenant thereto is occupied by a slum. He would draw my attention to the approval granted by Respondent No.1 to Respondent No.7's slum scheme under DCPR-2034 read with Regulation 33(10) and would submit that once such approval is granted, procedure prescribed in circular 144 issued by SRA has to be

undertaken and complied with. He would submit that there is a prescribed procedure for submission / processing and approval of such slum scheme wherein combined redevelopment of Municipal tenanted properties alongwith slum properties / areas is undertaken conjointly under Regulation 33(7) and 33(10). He would submit that it is absolutely mandatory to comply with the guidelines, procedure and obligations in such development. He would submit that the *sine qua non* in such a case is the NOC from the Corporation before issuing LOI which is admittedly violated in the present case. Thus, he would submit that without approval of Annexure-III from FC (SRA), without obtaining NOC from the Corporation which is the land owning authority and more specifically without obtaining and certifying Annexure-II from the Corporation in respect of more than 300 Municipal tenants occupying the said property in the Municipal buildings, LOI and revised LOI were issued in the year 2010 and 2011 by Respondent No.1 – SRA. He would submit that even thereafter what is pertinent to note is the fact that from the that date until termination of Respondent No.7 on 19.04.2018, Respondent No.7 did not take a single step towards achieving development of the said property from the date on which it was appointed. He would vehemently submit that apart from admitted breach of statutory provisions, there is an abnormal and gross delay on the part of Respondent No.7 to proceed with the redevelopment scheme and

therefore termination of such a developer is completely justified. He would submit that in the present case in the order dated 18.06.2011 at page No.234 appended to the Writ Petition, it is seen that the HPC while determining Application No.240 of 2011 filed by the Corporation has recorded that the LOI issued to Respondent No.7 by Respondent No.1 was itself issued on the basis of incomplete documents and was therefore inconsistent with procedural guidelines framed by the Corporation for processing, approval and sanctioning of joint redevelopment of a Municipal property alongwith a slum area under the twin Regulations, namely Regulation 33(7) read with Regulation 33(10). He would submit that in the instant case it is an admitted position that Annexure-II in respect of the Municipal tenants / occupants residing in the Municipal buildings and chawls was not certified for redevelopment despite repeated letters issued by Respondent No.1 to Respondent No.7 to comply with the prescribed procedure over a period of more than 7 years nor were the pending transfer of Municipal tenancies were effected. He would submit that in 2017 two out of the several Municipal buildings which were in a dilapidated condition suffered a mishap wherein one four year old girl lost her life and several other residents were injured due to collapse of a chhajja. He would submit that thereafter Respondent No.1 repeatedly urged Respondent No.7 to begin redevelopment for vacating the occupants of building Nos.1 and 2 which were in a

precarious condition, give them rent or alternate accommodation, but no steps whatsoever were taken nor responded to by Respondent No.7. He would submit that despite a long period of time being given to Respondent No.7, it did not take any step save and except it kept on engaging itself with talks with Municipal Tenants and delayed implementation of the slum scheme. He would submit that Respondent No.7 failed to comply with the directions issued by Respondent No.1 - SRA and Respondent No.2 - MCGM to vacate the dilapidated buildings, to pay transit rent, to give alternate accommodation right upto to 2018 leaving no option for Respondent No.1 to issue the statutory notice under Section 13(2). He would submit that during the entire tenure between 2010 – 2018, only or three specific instances i.e. on 13.09.2017, 26.09.2017 and 30.10.2017, Respondent No.7 furnished a reply, rather a completely vague and insufficient response to Respondent No.1 – SRA and Respondent No.2 - MCGM stating that it was in discussion with the Committee members of the Society to shift the tenants / occupants into alternate accommodation by accepting rent. However, what was stated in these letters was never fructified at all. He would urge the Court to consider the timeline from 15.12.2005, since when the said property actually began the process of development after the Court orders and until 2018 when the show cause notice was issued to Respondent No.7 and consider the conduct of Respondent No.7 in failing to comply with any of the statutory

provisions for undertaking development under Section 33(7) read with 33(10) in respect of the said property. He would submit that such demeanour and conduct on the part of Respondent No.7 clearly disentitled the Respondent No.7 from continuing as a developer and hence the order of termination passed by the Respondent No.8 on 19.04.2018 under Section 13(2) is completely justified.

3.4. In view of the above, he would now draw my attention to the steps taken by the Petitioner who is the newly appointed Developer by Respondent No.3 – Society for undertaking development on the said property by following the due process of law. He would submit that after termination of appointment of Respondent No.7 between 12.05.2018 and 15.05.2020 i.e. the period of 2 years the following dates and events took place:-

(i) On 12.05.2018, Respondent Nos.4 and 6 conducted a Special General Body Meeting in the presence of the authorised officer of Respondent No.1 – SRA and passed resolutions, amalgamating Respondent Nos.4 and 6 Societies into Respondent No.3 and appointed Petitioner as Developer.

(ii) On 14.05.2018, Assistant Commissioner (Estates) of Respondent No.2 – MCGM on taking due cognizance of the order passed by Respondent No.1 – SRA under

Section 13(2), informed Respondent No.1 – SRA, that the cost of repair of old buildings will now be recovered from the new developer.

(iii) On 11.07.2018, Respondent No.3 – Society executed DA, POA and consents in favour of Petitioner.

(iv) On 16.07.2018, Petitioner submitted proposal to Respondent No.1 – SRA as per prescribed procedure envisaged under circular No.144 to Respondent No.1 – SRA.

(v) Between 18.09.2018 and 06.10.2018, all five concerned departments of Respondent No.1 – SRA issued their NOC in favour of Petitioner as per the procedure laid down under circular No.144 of Respondent No.1 – SRA.

(vi) On 16.10.2018, Respondent No.1 – SRA accepted Petitioner's proposal and Petitioner paid the LOI scrutiny fee.

(vii) On 22.11.2018, Dy. Collector of Respondent No.1 – SRA forwarded the proposal of draft Annexure-II received from Respondent No.3 – Society to the office of Assistant Commissioner (E-ward) & Competent Authority of Respondent No.2 – MCGM.

(viii) On 14.01.2019, survey of slum area was carried out by the office of the Assistant Commissioner (E-ward) and Competent Authority of Respondent No.2 – MCGM as per the procedure prescribed under Government Resolution dated 17.01.2008 issued by the Housing Department of State of Maharashtra and circular dated 10.09.2015 issued by Respondent No.2 – MCGM.

(ix) On 23.01.2019 and 24.01.2019, inventory and tenancy verification of tenants under DCR 33(7) was carried out by the office of Assistant Commissioner (E-ward) of Respondent No.2 – MCGM as per prevailing guidelines issued by Respondent No.2 – MCGM dated 10.10.2016.

(x) On 30.04.2019, Assistant Commissioner (E-ward) and Competent Authority of slum area of Respondent No.2 – MCGM published provisional Annexure-II and invited objections and suggestions.

(xi) On 06.06.2019, Assistant Commissioner (E-ward) of Respondent No.2 – MCGM submitted his report on inventory and tenancy verification of municipal tenants under DCR 33(7) as per guidelines dated 10.10.2016 and submitted draft Annexure-II of slum dwellers as per guidelines dated 16.02.2019 prescribed by Respondent

No.2 – MCGM for issuance of NOC from Respondent No.2 for the SR scheme proposal of Respondent No.3 – Society proposed to be implemented through the Petitioner M/s. Renaissance Buildcon.

(xii) On 20.08.2019 and 21.08.2019, consent verification of all Municipal Tenants was carried out before the consent verification committee headed by DMC (Z-I) of Respondent No.2 – MCGM as per guidelines / circular dated 10.10.2016 issued by Respondent No.2 dated 10.10.2016.

(xiii) On 09.10.2019, consent verification committee of Respondent No.2 – MCGM verified the consent of all tenants and prepared its report stating that more than 51% of Municipal tenants had granted consent to Petitioner as Developer.

(xiv) On 11.10.2019, Assistant Commissioner (E-ward) of Respondent No.2 – MCGM submitted a status report to Respondent No.1 – SRA in the matter of certification of Annexure-II of the proposal submitted by Respondent No.3 – Society through the new developer i.e. Petitioner. Copy of the said report was also submitted to the Desk Officer, Housing Department with reference

to its letter dated 07.09.2019.

(xv) On 05.05.2020, Assistant Commissioner (Estate) of Respondent No.2 – MCGM based on the inventory, tenancy verification report and provisional Annexure-II of slum area submitted by AC (E-ward), scrutinized the proposal and prepared Annexure-II for the municipal tenants / occupants and forwarded the proposal to the Dy. Ch. Engineer (Imp.) of Respondent No.2 – MCGM who carried out technical scrutiny of the proposal as per SOP delineated in circular dated 20.07.2016 issued by Respondent No.2 – MCGM and submitted his report to AC (Estate) / D.M.C. (I).

(xvi) On 15.05.2020, AC (Estate) of Respondent No.2 – MCGM submitted his report to Joint Municipal Commissioner (Imp) on 15.05.2020 for obtaining sanction of Competent Authority for issuance of NOC to issue Annxure-II and NOC for municipal tenants / occupants.

4. After taking me through the above timeline, Mr. Kadam would submit that the Petitioner has undertaken the entire process of development of the said property to its fruition expeditiously by

updating and regularizing the long pending transfer cases of more than 200 Municipal tenants, by paying all statutory dues of the Corporation in compliance with all requirements for obtaining Annexure-II of the Municipal tenants and the NOC from the Corporation which the Respondent No.7 could not obtain in almost 12 years. He would submit that the aforesaid timeline and events would suggest that each and every statutory document and requirement has been complied with by Petitioner including obtaining the consent from all Municipal tenants, their tenancy certification and transfers and certification of Annexure-II of the slum dwellers. He would therefore urge the Court that in such a case, filing of Application No.295 of 2019 filed by Respondent No.7 and allowing that application by setting aside the appointment of Petitioner is an extremely high handed and colourable exercise of power by Respondent No.8 – AGRC. He would submit that AGRC ought to have considered the factual and legal non compliances by Respondent No.7 over a period of more than 10 years apart from the enormous delay before passing the impugned judgment. He would submit that having not considered the same, the impugned judgment and order is clearly unsustainable and deserves to be quashed and set aside. He would submit that the timeline in the present case clearly proves that Respondent No.7 failed in its duty to act as a developer for almost 10 to 12 years and the issuance of LOI and revised LOI in its favours and hence such a developer cannot be allowed to continue and

Respondent No.1 - SRA therefore correctly terminated Respondent No.7's appointment. He would submit that the impugned judgment by Respondent No.8 - AGRC complete ignores the aforesaid factual and legal issues while allowing the application filed by Respondent No.7. He would finally submit that Respondent No.7 has been a complete failure as developer which is admittedly proven by the aforesaid timeline and therefore the impugned judgment and order be quashed and set aside and appointment of Petitioner be restored by this Court.

5. Mr. Sakhare, leaned Senior Advocate appearing on behalf of Respondent No.2 – MCGM would draw my attention the Affidavit in reply dated 15.09.2020 filed by Manoj Mukundarao Desphande, Assistant Engineer (Improvement) appended at page Nos.1156 to 1177 of the Petition. He would draw my attention to the contents of paragraph Nos.10, 11, 15 and would contend that Respondent No.7 has miserably failed in its duty as a Developer. He has next drawn my attention to the terms and conditions of the letter dated 26.04.2007 issued by the Assistant Commissioner (Estates) which is appended at page No.1196. He would submit that Respondent No.7 not only failed to comply with the terms and conditions stated therein but also failed to pay the capitalized value to the Corporation and also failed to obtain and submit consent of 70% of the Building Land Tenant (BLT) and Vacant Land Tenancies (VLT) before declaration of the Municipal land as slum under the said Act. He would submit that Respondent No.7

failed to comply with requisitions contained in Corporation's circular dated 25.01.2008 read with the amended circular dated 07.04.2008 and did not prepare the inventory list of Municipal tenants and seek verification of their Tenancies / Transfers same from the Tenancy Verification Committee for redevelopment of Municipal property under Regulation 33(7). He would submit that despite specific directions passed by this Court in various Writ Petitions which are taken note of by the Court, Respondent No.7 did not comply with the requisitions thereby protracting redevelopment. He would submit that a large number of Municipal Tenancy Transfer Cases were pending at the time when Respondent No.7 was appointed and since 2010 Respondent No.7 was repeatedly intimated by Corporation to complete the procedure of the pending Tenancy Transfer Cases and submit proper consent of Municipal tenants for verification, but for reasons best known to Respondent No.7 no steps were taken by it at all. He would submit that despite Corporation siding and co-operating with Respondent No.7 over a period of more than 10 years, Respondent No.7 has not undertaken development thereby leaving the Municipal tenants as well as slum dwellers to suffer. He would submit that in such a composite development project, Respondent No.7 ought to have been proactive but Respondent No.7 chose not to implement or undertake development despite some occupants suffering injuries in a mishap of the Municipal Buildings and one girl losing her life. He

would submit that as against the lethargy of Respondent No.7 until its termination on 19.04.2018, the Petitioner who is the newly appointed developer by following the due process of law within a period of two years complied with each and every requisitions and requirements in respect of the composite development being undertaken and clearly shown its financial wherewithal. He would draw my attention to the contents of paragraph No.41 of Affidavit-in-Reply of MCGM dated 15.09.2020 which is reproduced below:-

> *"41. I say that, before termination of the appointment of Respondent No. 7 M/s. Krish Developers by Respondent No. 1 SRA, this Respondent repeatedly directed the Respondent No. 7 to evacuate the dilapidated buildings by paying rent to the occupants and demolish the said buildings for constructing in situ transit camps. In the meeting held under the chairmanship of Deputy Municipal Commissioner (Improvement) on 01.02.2018, the Respondent No. 7, M/s. Krish Developers had agreed to offer rent cheques or to give alternate temporary accommodation in 03 days to the tenants of building no. 1 & 2. However, there was no progress made in the redevelopment proposal by M/s. Krish Developers, Respondent No.7. Therefore, this Respondent was required to spend huge public money for repair of municipal tenanted buildings. I say that, after termination of Respondent No. 7's appointment by Respondent No. 1 vide order u/s. 13(2) of Slum Act dated 19.04.2018, Assistant Commissioner (Estates) of this Respondent vide his letter dated 14.05.2018 has informed Respondent No. 1 SRA to recover the repair cost incurred by MCGM for maintaining tenanted municipal buildings in habitable condition, from the new developer and to obtain the Annexure-II from this Respondent, MCGM for municipal tenants and remaining slum dwellers. Hereto annexed and marked* ***Exhibit-XVIII*** *is the copy of the letter dated 14.05.2018 issued by Assistant Commissioner (Estates) to the Respondent No. 1 SRA."*

5.1. From the above, he would submit that it is clearly construed that after termination of Respondent No.7's appointment, Corporation

incurred huge expenses in repairs of the Municipal Buildings to make them habitable. He would submit that in para Nos.42 to 53, Corporation has delineated all steps taken by Petitioner developer for development of the slum scheme. For brevity the same is not repeated herein as it has been fully considered in the timeline referred to by me herein above. He would draw my attention to para 54 to contend that 166 out of 272 tenants, amounting to 61.03% have consented in favour of Petitioner which fulfills the mandatory criteria of consents under DCPR-2034. He would submit that all requirements having been duly complied with and completed by Petitioner, the fate of 1200 Municipal tenants and slum dwellers is at stake. He would submit that in that view of the matter due to complete inaction on the part of Respondent No.7, the impugned judgment passed by Respondent No.8 – AGRC to once again restore Respondent No.7 in charge of the SR Scheme is arbitrary, high handed and a colourable exercise of power. The impugned judgment of AGRC therefore deserves to be quashed and set aide the appointment and continuation of Petitioner as Developer be continued in the interest of the Municipal Tenants / Slum Dwellers.

6. Mr. Aradwad, learned Advocate appearing for Respondent No.1 – SRA and has draw my attention to the Affidavit-in-Reply dated 04.01.2021 filed by Mr. Umesh C. Bodkhe, Executive Engineer, SRA appended at page No.1547 and additional Affidavit-in-Reply dated

11.02.2021 appended at page No.1618 and would contend that in view of the timeline involved in the present case, termination of Respondent No.7 as developer is completely justified by the judgment and order dated 19.04.2018 passed by Respondent No.1 - SRA. He would submit that in the facts and circumstances of the present case, Respondent No.7 did not deserve to continue as Developer despite having been given adequate time of more than 10 years to undertake development. He would submit that as opposed to Respondent No.7, the newly appointed developer i.e. Petitioner complied with all requirements within a period of two years and therefore the impugned judgment passed by the Respondent No.8 – AGRC on 23.03.2020 be quashed and set aside and order of appointment of Petitioner be restored.

7. Mr. Kamat, learned Senior Advocate has appeared in the companion Writ Petition No.2247 of 2023 on behalf of the Petitioner – Ekta MJP Co-operative Housing Society. This Petitioner is Respondent No.4 in Writ Petition No.2246 of 2023. He has adopted the submissions advanced by Mr. Kadam and Mr. Sakhare and would contend that dereliction on the part of the old Developer in implementing the SR Scheme is writ large on the face of record. He would make one specific additional submission about the financial capacity of the old Developer preventing him from complying with the statutory requirements of the MCGM and the SRA in respect of the

municipal tenants and the slum dwellers. He would submit that without taking any step as required by law and invariably delaying the SR Scheme after it was issued the LOI in the year 2010, the old Developer now cannot reclaim its position. He would therefore urge the Court to consider the dates and events involved in the present *lis* and in the interest of justice, quash and set aside the impugned order dated 23.03.2020 passed by AGRC and on behalf of the members of the Society who are the real affected party, urge the Court to pass further directions for immediate implementation of the SR Scheme within a time-bound program by restoring the appointment of the new Developer viz. M/s. Renaissance Buildcon.

8. Respondent No.5, Ekta Estate Cooperative Housing Society is a proposed Society. Affidavit-in-Reply dated 20.07.2020 is filed by this Society urging that the Writ Petition be dismissed. It is averred in the said Affidavit that Respondent No.5 – Society has appointed the Respondent No.7 for combined redevelopment under Regulation 33(7) read with Section 33(10). However, according to Petitioner, Respondent No.4 Society whose name is Ekta Cooperative Housing Society is the original society which has been merged and amalgamated with Respondent No.6 to form Respondent No.3 - Society. According to Petitioner, Respondent No.5 – Society is a completely non existent society which is assuming itself to be the old Ekta CHS society which has amalgamated itself into Respondent No.3.

Averments made in Affidavit-in-Reply by this particular Society i.e. Respondent No.5 are to the effect that it had played a role in appointment of Respondent No.7. If that be so, then it is seen that Respondent No.4 is the original Society and Respondent No.5 cannot usurp itself and claim to be the original Ekta CHS Ltd. It is seen that this particular Society has opined that the impugned judgment and order passed by AGRC has been correctly passed. However, objection taken by this particular society is on the basis of a general body resolution submitted to Respondent No.1 - SRA. If that be the case, Respondent No.1 is competent enough to consider the same strictly in accordance with law. It clearly appears on the face of record that this particular Society has taken objection to amalgamation of Respondent No.4 alongwith Respondent No.6 to from Respondent No.3 amalgamated Society. The process of amalgamation and passing of any regulation is statutory in nature and therefore the concerned Competent Authority has already followed the due process of law.

9. Mr. Bharucha, learned Advocate appearing for Respondent No.7 the principal contesting Respondent has drawn my attention to the Affidavit-in-Reply dated 23.07.2020 appended at page No.701 of the Writ Petition and after taking me through the pleadings has made the following submissions in rebuttal.

10. He has taken me through the appointment of Respondent

No.7 as developer and issuance of various orders by Respondent No.1 - SRA and Respondent No.2 - MCGM in favour of Respondent No.7. He would submit that despite Respondent No.7 following up with Respondent No.1 and the Municipal Corporation for issuance of Annexure-II between 2006 to 2008, the statutory Authorities did not act on the requisition made by Respondent No.7 and neglected to issue Annexure-II. He would submit that this led to the Petitioner to file several Writ Petitions in this Court beginning with Writ Petition No.1550 of 2009. He would submit that Respondent No.7 complied with all procedural requirements and submitted documents to both statutory authorities despite which the authorities did not cooperate. He would submit that after the meeting held with Additional Municipal Commissioner of the Corporation on 03.07.2010 pursuant to direction of this Court in Writ Petition No.313 of 2010, the answering Respondent submitted all compliances and documents to the Corporation but despite that the same were not considered at all. He would submit that after the documents were submitted as required on 11.08.2010, Corporation passed order confirming redevelopment to be carried out jointly under DCR 33(7) read with 33(10). He would submit that Respondent No.7 deposited the installment for premium amounting to Rs.1,03,57,500/- as demanded by Respondent No.1 - SRA for the purpose of issuance of LOI and also furnished a Bank Guarantee for Rs.1.25 crores. He would submit that the LOI was

issued by Respondent No.1 without insisting on submitting Annexure-III since SRA insisted on a Bank Guarantee from Respondent No.7. Such avermnets are made in para No.39 of the Affidavit in reply. He would submit that furnishing Annexure-III by Respondent No.7 was differed at that time by Respondent No.1 – SRA since Bank Guarantee of Rs.1.25 crores was furnished as security. He would submit that the Engineering Department therefore informed Respondent No.7 to submit Annexure-III at the time of obtaining permission for CC for the first rehab building. He would submit that on 06.01.2011 SRA issued IOA for rehab building No.1 in favour of Respondent No.7. He would submit that on 14.07.2011 Respondent No.7 paid alternate transit rent to occupants of building Nos.1 and 4 and accordingly intimated the same to the Corporation. He would submit that only after this SRA issued approval dated 01.03.2011 to construct transit camp and also issued amended LOI dated 20.04.2011.

10.1. He would next submit that after April, 2011 Corporation issued notices to the occupants / tenants of Municipal building for vacating their premises, but the concerned co-operative society namely Respondent No.4 filed Writ Petition (L) No.991 of 2011 challenging the aforesaid notices. The said Writ Petition was withdrawn before the Supreme Court with liberty to approach the appropriate forum. Thereafter two other Writ Petitions, namely Writ Petition (St) Nos.1041 of 2011 and 1135 of 2011 were also filed in this Court. He

would submit that there was a controversy in the meanwhile as to whether the redevelopment would take place under Regulation 33(9) or jointly under 33(7) read with 33(10). Writ Petition was filed by Respondent No.7 being Writ Petition No.2411 to 2011 to clarify this issue. By order dated 05.09.2014, this Court directed Municipal Corporation not to take steps to develop the property but on 16.04.2015 this Writ Petition was dismissed. Thereafter development of the said property was confirmed jointly under Regulation 33(7) and 33(10). He would submit that in order to seek this confirmation the Respondent No.2 filed Notice of Motion (L) No.528 of 2015 in the aforementioned disposed of Writ Petition. This Notice of Motion was allowed on 22.09.2015. He would thus submit that it is only after September, 2015, the position of redevelopment of the said property was cleared. He would submit that the answering Respondents thereafter in March 2016 and September 2016 decided to vacate Building Nos.1 and 2 which were dilapidated with immediate effect. He would submit that thereafter delay occurred due to objections raised by the concerned societies and the entire correspondence is narrated in para Nos.88 to 96 of its Affidavit-in-Reply. He would submit that in the above scenario lapse of time upto December 2017 took place leading to non compliance of conditions on the part of Respondent No.7 and in such a situation the show cause notice was received by Respondent No.7 due to pressure being brought upon the

authorities. He would submit that some of the Municipal tenants in the meanwhile did not cooperate and did not vacate their premises leading to delay. In this situation, Respondent No.1's show cause notice dated 31.03.2018 was determined and appointment of Respondent No.7 was terminated by judgment dated 19.04.2018.

10.2. He would submit that in the above situation non compliance of the requisition on the part of answering Respondents cannot be attributable to any neglect on the part of Respondent No.7. He would submit that Respondent No.8 – AGRC has rightly considered the aforementioned timeline and reasons and has therefore correctly passed the judgment dated 23.03.2020 while allowing Application No.295 of 2019 and setting aside the order dated 19.04.2018 of Respondent No.1 - SRA.

10.3. He would draw my attention to the contents of paragraph Nos.10 and 14 of the impugned judgment dated 23.03.2020 and would contend that it has been held by Respondent No.8 - AGRC that Respondent No.2 - MCGM being the land owning authority had refused to grant NOC for redevelopment of the said plot under combined Regulation 33(7) and 33(10) of DCPR to Respondent No.7 and has returned a finding that considering this the delay in implementation of the SR Scheme submitted in the year 2006 by Respondent No.7 for combined redevelopment cannot be attributed to

Respondent No.7. He would therefor urge the Court to consider this finding in the light of the delay which has occurred and accordingly uphold the decision of the AGRC which is impugned in the present Petition. All that he would submit is the fact that there is absolutely no delay on the part of Respondent No.7 in implementation of the slum scheme and its termination by Respondent No.1 - SRA on 19.04.2018 due to the reasons stated therein are not sustainable. He would vehemently submit that Respondent No.8 - AGRC has correctly quashed and set aside the decision dated 19.04.2018 and restored appointment of Respondent No.7 as developer. He would submit that the Writ Petition be therefore dismissed with costs.

10.4. I have heard Mr. Kadam, learned Senior Advocate for Petitioner in Writ Petition No.2246 of 2023; Mr. Kamat, learned Senior Advocate for Petitioner in Writ Petition No.2247 of 2023; Mr. Aradwad, learned Advocate for Respondent No.1 – SRA; Mr. Ghadigaonkar, learned Advocate for Respondent No.5; Mr. Bharucha, learned Advocate for Respondent No.7, Mr. Patil, learned Advocate for Respondent No.8 – AGRC and Mr. Sakhare, learned Senior Advocate for Respondent No.2 – MCGM. Submissions made by learned Advocates appearing for respective parties have received due consideration of Court.

11. At the outset, the discrepancy with respect to the number of

societies is required to be clarified and cleared. It is seen that in the LOI issued in favour of Respondent No.7 on 14.10.2010, names of Respondent No.4 and Respondent No.6 - Societies are reflected therein. However it is seen that name of Respondent No.5 - Society gets reflected in the revised LOI dated 20.04.2011 for the first time without there being any resolution or the list of the members of the Respondent No.5 - Society or any relevant documentary evidence pertaining to formation of Respondent No.5 - Society. It is an admitted position that the period prior to issuance of LOI dated 14.10.2010, involves the presence of Respondent No.4 and Respondent No.6 - Societies only.

12. It is seen that on 15.12.2005, tenants and occupants of municipal buildings / chawls formed Respondent No.6 - Society and appointed M/s. Riddhi Siddhi Developers as Developer and submitted their redevelopment Scheme under DCR 33(7) to MCGM. It is seen that slum dwellers and occupants of the slum area intertwined with the municipal buildings formed Respondent No.4 - Society and appointed Respondent No.7 as Developer on 23.04.2006.

13. The minutes of meeting appended at Exhibit “R”, page No.241 of the Writ Petition are of Respondent No.5. The said minutes of meeting are of meeting held on 18.06.2010, the resolutions passed and noted in the said minutes pertain to appointment of Respondent

No.7 as Developer. Appended to the said minutes are signatures of 609 alleged members of the proposed society, however it is clearly seen that the 609 members' list bears a notarized stamp of 19.08.2006 and hence there is a clear interpolation of the list of the alleged members who were infact members of Respondent No.4 - the old Society which amalgamated into the new Society and as such it is clearly derivated that Respondent No.5 is a completely non-existant Society. Thus in so far as Respondent No.5 - Society is concerned, no cognizance of the said Society can be taken in the present case at all. It is nothing but a front of Respondent No.7.

14. In the present case, at the outset it needs to be reiterated that the statutory provisions and guidelines issued by SRA and MCGM from time to time which are applicable for redevelopment of the said property occupied by municipal tenants and slum dwellers by amalgamating them for redevelopment under Regulation 33(7) and 33(10) of DCR are clearly available in the public domain.

15. It is seen that the present redevelopment commenced on 15.12.2005 when tenants and occupants of the municipal chawls and occupants formed a Society for the first time and appointed M/s. Riddhi Siddhi Developers as their Developer and submitted their redevelopment scheme under regulation 33(7) of DCR 1991 to MCGM. It is needless to state that in the present case though

Respondent No.4 also submitted its SR scheme for redevelopment, the same could be implemented without taking into account the Municipal tenants / occupants of the municipal buildings and chawls. On 23.04.2006, the slum dwellers and occupants of municipal chawls and buildings formed Respondent No.4 - Society and appointed Respondent No.7 as Developer. Record reveals that M/s. Riddhi Siddhi Developers was a sister concern of Respondent No.7. Thus, as and from 2005-06 and upto 2018 when Respondent No.7's until appointment as Developer was terminated by Respondent No.1, the statutory provisions were in place and to the knowledge of all concerned including the Developer for compliance. These statutory provisions were in place in the form of circulars issued by SRA and guidelines and procedure prescribed by SRA and MCGM for such redevelopment.

16. It is seen that on 14.11.1994, Respondent No.2 - MCGM issued guidelines for implementation of redevelopment scheme under Regulation 33(7) of DCR, 1991 for reconstruction / redevelopment of old municipal properties by municipal tenants' co-operative housing societies. On 27.08.1997, circular No.4 was issued by Respondent No.1 – SRA prescribing the procedure for submission and approval of slum rehabilitation scheme proposal under Regulation 33(10) of DCR. On 15.10.1997, the State Government sanctioned modified Regulation 33(10) of DCR 1991. On 24.11.1997, Respondent No.1 – SRA

prescribed the procedure for submission, processing and approval of slum schemes. The Supreme Court in its decision dated 19.12.2008 passed in Civil Appeal No.7435 of 2008 has clearly emphasized on the need to follow the guidelines for redevelopment. The SRA has also prescribed a checklist of documents required for certification of Annexure III. The purpose for certification of Annexure III is to assess the financial capability of the Developer and such certification has to be done by the Financial Controller – SRA (FC, SRA) which is a mandatory condition before sanctioning the scheme and issuance of LOI in favour of any Developer.

17. The question before the Court is whether such statutory procedure prescribed for assessing the financial capability of the Developer can be circumvented without certification of Annexure III by the Financial Controller of SRA and allowing a Developer to submit a bank guarantee. In the present case, Respondent No.7 has in its reply stated that certification of Annexure III of the Developer by the Financial Controller of SRA was deferred and dispensed with because the Developer submitted a bank guarantee of Rs.1.25 Crores. There is no letter issued or approval granted by the Respondent No.1 - SRA to dispense with certification of Annexure III verification by the Financial Controller, SRA and permit Respondent No.7 to deposit the bank guarantee of Rs.1.25 Crores in lieu thereof. Therefore submission made on behalf of Respondent No.7 that Annexure III stood dispensed with

before LOI was issued cannot be accepted and countenanced. Admittedly, LOI or revised LOI can only be issued if Developer has the financial wherewithal to complete the project. There is one more aspect which leads credence to the fact that in the present case Respondent No.7 may not have the financial wherewithal to complete the project. This fact is attributable to the humongous delay in implementing the SR Scheme in the present case. Though it is pleaded and argued by Respondent No.7 that due to Court cases until 2015, it could not take steps for implementation of the SR Scheme, however, it is seen that for 3 years thereafter, Respondent No.7 did not take any affirmative steps, save and except to inform the Respondent No.1 that it was engaged in talks with the municipal tenants and the concerned societies and was deciding about their alternate arrangement. Though Respondent No.7 may contend that until 2015, it could not take steps for redevelopment due to Court proceedings, however such a submission also cannot be accepted in the facts of the present case as the LOI was issued in its favour in the year 2010 itself. Apart from the procedure and circular issued by Respondent No.1 and 2, it is seen that the Housing Department of State of Maharashtra prescribed specific guidelines dated 17.01.2008 for issuance of Annexure II by the Competent Authority for the SR Schemes undertaken under Regulation 33(10) of the DCR. The said Government Resolution is appended at page No.1459 of the Writ Petition and it states that certified Annexure

II from the Competent Authority is a mandatory condition for approval of the SR Scheme.

18. It is seen that for the purpose of redevelopment of municipal tenanted properties under DCR 33(7), MCGM has prescribed a specific procedure for preparation of inventory, tenancy verification and obtaining consent of Municipal tenants for redevelopment. It is seen that unless and until the aforesaid prescribed procedure is complied, no Annexure II can be issued under DCR 33(7). In the present case, it is clearly observed that no steps were taken by Respondent No.7 until 2018 to get the inventory prepared, deal with the pending Municipal tenancy transfer applications of hundreds of Municipal tenants, complete the verification of Municipal tenancies and obtain consent from tenants for redevelopment and submit the same to MCGM.

19. Perusal of pleadings reveal that all along Respondent No.7 was making repeated complaints about refusal of tenants to vacate the property and having been engaged in talks with the tenants and the societies. It is also seen that there were various guidelines and SOPs issued by MCGM for proposal of redevelopment of municipal properties occupied by tenants as well as slum dwellers under a combined composite scheme under DCR 33(7) readwith 33(10). Petitioner has appended these guidelines and circulars at page no.108 to 174 of Volume I of the compilation filed by the Petitioner.

20. On reading the order dated 19.04.2018 passed by the Respondent No.1 under section 13(2) of the said Act a clear finding is recorded that even accepting the stand adopted by Respondent No.7 that implementation of the SR Scheme remained pending upto 2015 due to Court cases, but even thereafter for a period of 3 years, Respondent No.7 did not take any concrete step to complete the SR Scheme or for that matter implement of the Scheme. Respondent No.1 has returned a clear finding that Respondent No.7 did not take any effort for obtaining Annexure II of the municipal tenants / occupants. As against this finding, the impugned judgment passed by the Respondent No.8 - AGRC gives a completely contradictory finding regarding attributability of the delay and states that the delay cannot be attributable to Respondent No.7. This finding returned by Respondent No.8 - AGRC in paragraph No.10 read with paragraph No.14 of the impugned judgment is *prima facie* incorrect and contrary to the record if the aforementioned timeline is considered.

21. It is seen from the record that since inception, Respondent No.7 for more than 2 years i.e. from 26.04.2007 to August 2009 did not comply with the requisitions made by Respondent No.2 - MCGM for submitting written consents and registered undertakings of the Municipal Tenants to MCGM. Record shows that it is the Respondent No.7 itself who approached this Court by filing two Writ Petitions at that time in the year 2009 - 2010 namely Writ Petition No.1550 of

2009 and Writ Petition No.313 of 2010. It is seen that the Assistant Commissioner, 'E' ward and Competent Authority of MCGM passed a specific speaking order dated 09.09.2009 which is appended at page No.1202 of the Writ Petition after hearing Respondent No.7 and rejecting its request to issue Annexure II by specifically holding that Respondent No.7 failed to comply with the compliances and requirements namely to file the registered undertakings and proper consents of the municipal building tenants.

22. It is seen that despite the above order, it is the Respondent No.7 who approached this Court once again by filing Writ Petition No.313 of 2010 seeking a direction for issuance of LOI and Annexure II certifying the names of the eligible occupants. During this time, the issue relating to combined and composite redevelopment under 33(7) and 33(10) was decided and Respondent No.7 undertook redevelopment and agreed for the same. However, Respondent No.7 did not file or submit any proposal for obtaining Annexure II and NOC of MCGM which is the land owning Authority for redevelopment as per the prevailing guidelines and circulars referred to and alluded to herein above. In this context, the order dated 26.06.2010 passed by this Court while disposing of Writ Petition No.313 of 2010 is crucial. By that order this Court directed Respondent No.2 - MCGM to take an appropriate decision for issuing Annexure II, if the Respondent No.7 has complied with all requirements. It is seen that on 03.07.2010

Respondent No.2 – MCGM in compliance of this Court's order conducted a joint meeting of all concerned officers and passed the order namely that there should be no objection to consider redevelopment jointly under Regulation 33(7) and 33(10) of DCR provided the Developer agrees to submit the required compliances, documents and consents in accordance with law. It was also observed that at that time Respondent No.7 claimed that he had obtained consent of 70% of the municipal tenants in his favour, however according to the record submitted by Respondent No.7 to MCGM, it was seen that consents of only 74 municipal tenants out of 278 tenants were submitted and therefore Respondent No.7 was directed to submit the requisite consents and required documents. It is seen that this Hon'ble Court also granted extension of time to the parties who applied jointly thereafter. Thereafter on 26.08.2010, once again MCGM conducted a joint meeting of all concerned officers and it was observed that MCGM was in receipt of 180 pending Municipal Tenancies transfer cases of municipal tenants / occupants and they could only be processed on receipt of the required documents which were to be submitted by Respondent No.7. It was also pointed out that until the Municipal transfer cases were updated after submission of required documents, transfer of tenancies would not be completed and only thereafter verification of the consents could be completed as per the prevailing guidelines for the purpose of issuing Annexure II under

DCR 33(7). It was therefore unanimously decided by MCGM and Respondent No.7 to take further extension of three months to complete this process.

23. It is seen that Respondent No.7 even thereafter did not comply with any of the requirement of MCGM to enable MCGM to update the transfer cases of municipal tenants of occupants of the municipal buildings until termination of Respondent No.7 on 19.04.2018. As juxtaposed with this, it is seen that the newly appointed Developer i.e. the Petitioner herein, after its appointment by following the due process of law complied with all necessary requirements of MCGM, enabling MCGM to update the transfer cases of 200 municipal tenants, complete the process of tenancy verification and carried out verification of consents within a period of one year from the date of its appointment and thereafter got the certified copy of the draft Annexure II approved from MCGM.

24. It is seen that the dereliction and negligence of Respondent No.7 to cooperate during this period with the MCGM is writ large on the face of record. Despite Respondent No.7 on the one hand during the meeting held with the Assistant Municipal Commissioner on 26.08.2010 agreeing to seek extension of time from this Court to complete the process of issuing Annexure II for the municipal tenants, Petitioner did not wait and within 4 days thereafter made an

application to the SRA for obtaining LOI for joint redevelopment without complying with the mandatory requirement of submitting Annexure-II and NOC of the MCGM.

25. It is seen that without submitting and obtaining certified Annexure-II and NOC of the MCGM, the Respondent No.1 issued the LOI to the Respondent No.7 at that time for reasons best known to Respondent No.1. *Prima facie,* this itself was an arbitrary exercise of power on the part of Respondent No.1 at that time itself. As noted above, without obtaining certified Annexure-III from the Financial Controller of SRA and without obtaining certified Annexure II from the MCGM and most importantly without obtaining the NOC from the land owing authority i.e. MCGM, the LOI which was issued was itself a *malafide* exercise of power. Be that as it may, this LOI was issued on 14.10.2010, the delay on the part of the Respondent No.7 from 14.10.2010 to take any concrete steps for redevelopment is once again writ large on the face of record.

26. In view of the above, it is therefore proved that the LOI and revised LOI was issued to Respondent No.7 on the basis of incomplete documents. However even thereafter no steps were taken by Respondent No.7 to comply with compliances, requirements and complete the process. All that the Respondent No.7 in its Affidavit-in-reply would contend is that since bank guarantee of Rs.1.25 Crores

was deposited by Respondent No.7, there was a go-by to the Respondent No.7 from furnishing certified Annexure III. In so far as certified Annexure II and NOC is concerned, the only reply of Respondent No.7 is that upto 2015, there were Court cases which were pending. It is seen that the Court cases were nothing but Writ Petitions filed by the Respondent No.7 itself. The Respondent No.7 is clearly guilty of gross delay and laches and the explanation offered is not acceptable and is rejected. Members of the Society have suffered in the interregnum.

27. It is further seen that in those very Writ Petitions, Respondent No.2 – MCGM was directed to take affirmative action so that Development could commence. However for taking such affirmative action, proactive role of Respondent No.7 was required. Respondent No.7 failed miserably and did not take any steps and only as late as in August and September 2017, in response to repeated reminders and letters issued by MCGM gave a reply that it was engaged in talks with the municipal tenants and therefore delay had occurred. It is seen that at all relevant times MCGM being guided by the orders passed by this Court in the Writ Petitions filed by Respondent No.7 corresponded and communicated with Respondent No.7 and directed it to obtain Annexure II by completing the process of tenancy verification, transfer of the tenancy applications and verification of consents of the municipal tenants, vacating dilapidated

building Nos.1 and 2 immediately and to pay rent to the tenants. It is borne out from the record that Respondent No.7 paid transit rent to the tenants of two dilapidated buildings for one year but did not continue to pay the rent thereafter leading to the said municipal tenants re-occupying their tenements. It is also borne out from record that MCGM had to incur huge expenditure from public funds to repair the dilapidated municipal buildings to secure habitation of the municipal tenants in the dilapidated buildings. All this went upto 2018, when Respondent No.1 - SRA issued the show-cause notice to Respondent No.7. In this background, the judgment and order dated 19.04.2018 came to passed terminating the appointment of Respondent No.7.

28. It is seen that even according to Respondent No.7, Respondent No.2 had issued the NOC to Respondent No.7 on 04.11.2015 for composite redevelopment. This fact has been noted by the Respondent No.8 – AGRC in the impugned judgment. If this be one of the factors, then there is no reason for the delay to occur thereafter. There is no explanation which can be countenanced for the inaction and omission of Respondent No.7 beyond 2015 for a period of 3 years.

29. In this background let us analyse and see whether the Respondent No.7 has the financial wherewithal and competency for implementation of the present SR scheme. As observed above,

Annexure III which assesses the financial capability of the Developer is a mandatory requirement under clause X of the procedure prescribed by Respondent No.1 - SRA before sanctioning any scheme or issuance of LOI. Once this is not submitted it cannot lie in the mouth of the Respondent No.7 to proceed with the LOI. As against the above, the steps taken by the newly appointed Developer i.e. the Petitioner cannot be ignored as delineated hereinabove. All steps taken by Petitioner have been clearly noted and there is no ambiguity whatsoever about the same.

30. In view of the above observations and findings, let us analyse the impugned order passed by the Respondent No.8 - AGRC. It is seen that the said order is dated 23.03.2020 but was uploaded on the website of Respondent No.8 on 08.06.2020. Perusal of the order clearly reveals that the said order disregards the objections raised by Respondent No.1 - SRA. All that the said order concludes in paragraph No.10 read with paragraph No.14 is on the attributability of delay and therefore rules in favour of Respondent No.7. Respondent No.8 has held that delay is caused due to change in stand by the Respondent No.2 – MCGM, however in view of the lapse of time and above observations it clearly shows that effective steps were taken by MCGM to ensure confirmation of composite redevelopment and accordingly Respondent No.7 was directed to comply with the statutory requirements. It is seen that despite directions passed by this Court,

Respondent No.7 did not comply with the prescribed statutory requirements. No benefit therefore can be derived or claimed by Respondent No.7. The bald conclusion arrived at by Respondent No.8 that delay is not attributable to the action of Respondent No.7 is on the face of record incorrect and deserves to be rejected. The timeline referred to and alluded to hereinabove clearly suggests that Respondent No.7 was engaged in talks and attempting to persuade the municipal tenants to vacate the premises unsuccessfully for an invariably long period of time. Therefore it cannot be stated that the delay cannot be attributable to the Respondent No.7. Infact, if the entire timeline is seen right form 2005 onwards, it is the Respondent No.7 who is the sole contributory factor to the delay in achieving the objective of the SR Scheme in the present case. In this case, apart from the Municipal tenants and slum dwellers, even the authorities have suffered due to the inaction of Respondent No.7.

31. Though the Petitioner has raised the issue of the impugned judgment being ante-dated, since it was passed on 23.03.2020, I do not deem it fit to deal with the same since I have decided the present Petition on its own merits and an inclined to interfere with the order dated 23.03.2020.

32. It is seen that on 03.07.2020, this Court passed a status quo order. The said status quo order has continued till date. Sufferance is

writ large on the face of record. It is a sorry state of affairs.

33. From the above, it is clearly seen that there is inordinate delay and non-performance on the part of Respondent No.7 in implementing the composite redevelopment scheme. It is seen that Respondent No.1 - SRA issued LOI and revised LOI in the years 2010 - 2011 without approval and obtaining Annexure III from Financial Controller SRA and certified Annexure II from the MCGM alongwith the NOC from the land owning authority. It is seen that Respondent No.1 issued the IOA for rehab building No.1 and granted permission for construction of 200 transit tenements. It is seen that Respondent No.7 initially paid rent to 60 occupants who vacated their structures but stopped paying rent after one year and therefore these very occupants once again reoccupied their tenements. The entire timeline between 2005 and 2018 has been delineated hereinabove.

34. It is seen that admittedly Respondent No.7 did not obtain Annexure II, Annexure III and NOC of MCGM and therefore issuance of LOI was in clear breach of the provisions of DCR, 1991 and the resolutions and circulars / guidelines issued by the Respondent Nos.1 and 2 from time to time. In the Appeal filed by the Respondent No.7 being Appeal No.295 of 2015, Respondent No.8 did not consider the aspect of delay and limitation at all. Despite the same being pointed out and thus the impugned order was passed in favour of the

Respondent No.7. More so, Respondent No.8 did not take into cognizance steps taken by Petitioner i.e. the new Developer pursuant to its appointment by following the due process of law.

35. The extent and scope of an appeal filed before the AGRC is restricted and it cannot re-appreciate the entire case and defeat the objectives of the said Act. In the present case, it is clearly seen that there was complete inaction and omission on part of the Respondent No.7 right since inception of the slum scheme. And even after MCGM having issued its NOC on 04.11.2015, Respondent No.7 turned a deaf ear to the repeated correspondence and letters issued by MCGM. In this entire process, the sufferers were the municipal tenants, slum dwellers and the vacant land tenants of MCGM. Time and again the Supreme Court and this Court in a catena of decisions have reiterated that the wishes of the slum dwellers / occupants of dilapidated buildings is of paramount consideration and they cannot be at the mercy of the Developer. In the present case, the delay on part of the Developer - Respondent No.7 has been clearly noted and proven.

36. In view of the above observations and findings, the impugned judgment and order dated 23.03.2020 is clearly unsustainable and deserves to be interfered with. It stands quashed and set aside. Writ Petition succeeds. Writ Petition stands allowed in terms of prayer clause ‘a’.

37. It is clarified that any order passed or steps taken pursuant to the judgment dated 23.03.2020 are quashed and set aside and declared as null and void. In the interest of justice and considering the abnormal delay in the present case, the Petitioner and Respondent Nos.1 and 2 are directed to proceed with redevelopment of the said property as expeditiously as possible and strictly in accordance with law.

38. Writ Petition stands allowed and disposed in the above terms.

[MILIND N. JADHAV, J.]

39. After the judgment is pronounced and signed, Mr. Madon, learned Advocate appearing for Respondent No.7 i.e. contesting Respondent would submit that there has been a *status quo* order for the past 4 years and the same deserves to be continued in order to enable Respondent No.7 to approach the Superior Court. Mr. Surana, learned Advocate appearing on behalf of Petitioner in WP No.2246 of 2023 would submit that considering the facts and circumstances of the present case and the delay that is occurred, Application made for stay of this Judgment be rejected. In view of the observations and findings returned by me in the above judgment, I am not inclined to accept the request made by Mr. Madon. Hence, the request stands rejected.

40. In view of disposal of the Writ Petition No.2246 of 2023, Writ Petition No.2247 of 2023 filed by Ekta MJP CHS and Ors. also stands disposed. Pending Interim Application No.2645 of 2020 is also disposed.

[MILIND N. JADHAV, J.]

Ajay