

Date: 22nd May, 2024

To,

Maharera,

Subject: Regarding collector NOC for Plot Bearing CS No. 718 of Mazagaon Divison being collector lease hold plot.

With reference to the above subject, we would like to inform you that we had approached the Honourable high court pertaining to the issue regarding Collector NOC by way of Writ Petition No: 6714/2016 with Civil Application No: 2579/2016 . In the aforesaid WP by order dated 26th October, 2016 by Hon'ble High Court under point 7, Sub point c that the petitioners i.e. us, without insisting NOC from respondent No: 1 and 2 can process and sanction the plans of the proposed buildings on the land and further grant all the redevelopment and construction related permissions interalia including CC and Building Completion Certificate. The copy of the said order is attached herewith for your ready reference and record.

In view of the above kindly do the needful in the interest of Justice at the earliest.

Thanking you,



For Darshan Sky High Constructions LLP



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6714/2016
WITH
CIVIL APPLICATION NO.2579/2016

M/s. Darhsan Skyhigh Constructions & Anr.

... Petitioner

V/s.

State of Maharashtra & Ors.

... Respondents

Mr. Narendra Walawalkar, Senior Advocate a/w. Sanjay Kadam, Sanjil Kadam, Sayalee Rajpurkar, Deepak Enakphale i/b. Kadam & Co. for the petitioner

Mr. Vinod Mahadik for the Respondent Nos.3 and 4. for respondent Municipal Corporation

Mr. S. D. Rayrikar, AGP for respondent Nos.1 and 2.

CORAM: K.K. TATED, J.

DATED : OCTOBER 26, 2016

PC. :

1. Heard the learned counsel for the parties. The additional compilation of documents filed by the petitioner is taken on record.

2. By this petition under Article 227 of the Constitution of India, the petitioner challenges order dated 02.04.2016 passed by the Principal Secretary (Revenue and Forest Department), Mantralaya, Mumbai directing the Collector to reconsider the petitioner's application dated 03.05.2013 and to first objectively ascertain the exact extent of violations of the covenants, provisos and conditions of the lease deed dated 29.08.1924, then issue show cause notice to the concerned

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parties as regards such violations of the terms and conditions of the said lease deed and, after giving due opportunity of being heard to the concerned, submit a fresh proposal to the Government within eight weeks regarding whether or not the said expired lease should be renewed and whether other prayers should be favourably considered.

3. The learned senior counsel for the petitioner submits that in the present proceedings, the Government, by their letter dated 30.04.1959 condoned the breaches in respect of the lease deed dated 29.08.1924.

Paragraph 1 of the said letter reads thus:

“The undersigned presents compliments to the Collector of Bombay and with reference to his letters No.SB-CSD-2624, dated 4th February 1959, SB-CSD-LND-2578, dated 6th February 1959, SB-CSD-LND-2580 dated 9th February 1959, SB-CSD-LND-2588 dated 12th February 1959, SB-CSD-LND-2579 dated 16th February 1959, SB-CSD-LND-2593 dated 16th February 1959, SB-CSD-LND-2636 dated 23rd February 1959 and SB-CSD-LND-2616, dated 2nd March 1959 is directed to state that Government is pleased to condone the breaches of the leases in these cases subject to the condition that the lessees make a voluntary payment of compensation of Rs.100/- in each case and also pay rent as provided in the lease in respect of the additional built up area of the lands with retrospective effect from the date of the commencement of the structures and subject to the additional condition that only the existing breaches for the purpose of permitting the use of the existing unauthorised structures for the purposes for which they are used at present are condoned and that, if the lands and the structures are used for any other purpose, they shall be liable to be resumed without payment of compensation or Government may continue the leases of the lands subject to such terms and conditions as it may deem fit to impose having regard to the facts and circumstances of the case.”

4. The learned senior counsel for the petitioner also relied on a map dated 25.04.1958 in respect of CTS No.718. He submits that even this



map shows that the Government has condoned the additional construction. He submits that they have no objection if the Collector holds an inquiry as per impugned order dated 02.04.2016 and submit a report. He submits that in the meanwhile the respondent corporation may be directed to consider their plan and process the same. He submits that unless and until they get no-objection from the Collector, they will not carry out actual construction on the suit site. He submits that the petitioner will file an undertaking by 17.11.2016, with copy to other side, stating that they will not commence the actual construction activities on the suit land without obtaining NOC from the Collector and leave of this court. He further submits that in the meantime, ad-interim relief in terms of prayer clause (c) be granted.

5. On the other hand, the learned AGP for the State seeks some time to take instructions about the action taken by the Collector, pursuant to the order dated 02.04.2016 passed by the Principal Secretary (Revenue and Forest), Mantralaya, Mumbai.

6. The learned counsel for the Municipal Corporation submits that, if ad-interim relief is granted in terms of prayer clause (c), they will sanction the plans according to law, only.

7. Considering the submissions made by the learned counsel for the parties, following order is passed:

- a. Rule.
- b. Rule on interim relief, returnable after 8 weeks.

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c. Ad-interim relief in terms of prayer clause “C” which reads thus:

“(c) Pending hearing and final disposal of the Petition, an interim order inter alia ordering and directing respondent Nos.3, 4 and all other authorities to process and sanction the plans of the proposed buildings on the land which is subject matter of this writ petition and approve the Commencement Certificate thereof and further to grant all the redevelopment and construction related permissions inter alia including Commencement Occupation and Building Completion Certificate to the petitioners, without insisting for NOC from respondent Nos.1 and 2 in view of clause (6) of the Indenture of lease dated 29th August 1924 (being exhibit “B” hereto) and on such terms and conditions that this Hon'ble Court may deem fit and proper.”

d. The respondents to file their Affidavit-in-Reply within four weeks from today, with copy to other side.

e. The petitioner to file their undertaking as stated hereinabove, by 17.11.2016, with copy to other side

f. Place the Writ Petition on board for confirmation of ad-interim relief after eight weeks.

g. The learned AGP waives service for respondent State.

h. In view of the above, the civil application does not survive. Same stands disposed of as infructuous.

(K.K. TATED, J.)