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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELATE JURISDICTION
CIVIL APPLICATION NO.361 OF 2015 IN
WRIT PETITION NO.6059 OF 2010

R.V.Construction ...Applicant
vs.
1 Nashik Municipal Corporation
and others ...Respondents

Mr.Sandip Shinde for the applicant
Mr.R.S.Apte, Senior Advocate i/b Mr.Vaibhav Patankar
for the respondent Nos.1 and 2
Ms Leena Patil i/b Mr.M.S.Karnik for respondent
Nos.5 to 13.

CORAM : A.S.OKA, &
A.K.MENON, JJ.

DATE : FEBRUARY 23, 2015

P.C.:

1 Heard the learned counsel for the applicant and the learned counsel for the respondent Nos.1 and 2 and the learned counsel for the respondent Nos.5 to 13. From perusal of Exhibit-B to this application, it appears that application made by the Architect of the Applicant for grant of Occupation Certificate has been kept pending only on the ground that Writ Petition No.6059 of 2010 is pending.

2 The respondent no.1 Municipal Corporation cannot keep the application pending for grant of Occupation Certificate only on the ground that the Writ Petition is pending in this Court for final hearing.

3 We, therefore, dispose of this application by passing the following order:

- (I) We direct the respondent No.1 to dispose of the application made by the applicant for grant of Occupation Certificate in accordance with law without being influenced by the pendency of the main Writ Petition;
- (II) We make it clear that if the respondent No.1 finds that the building has been allowed to be occupied without grant of Occupation Certificate, it will be open for the respondent No.1 to deny the Occupation Certificate on that ground. If the building is found to be unoccupied and if the Occupation Certificate is granted, we make it clear that grant of Occupation Certificate will be subject to final outcome of the pending Writ Petition. In such an event, the applicant shall not allow any third party to occupy the premises in the building or any part thereof unless a specific undertaking is taken by the applicant from all such parties that in the event the Writ Petition is dismissed, the said parties will have to hand over the possession of the premises to the applicant. The undertaking will incorporate a statement that the third parties are aware of the fact that the Occupation Certificate will be subject to final outcome of the Writ Petition;
- (III) Civil Application is allowed on above terms.

(A.K.MENON,J.)

(A.S.OKA,J.)