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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.6992 OF 2015

Jai Bhawani Co-operative Housing Society	...Petitioner
v/s.	
The State of Maharashtra and Ors.	...Respondents.

Mr.M.M.Vashi, Senior Advocate i/b M/s.M.P.Vashi Associates, for the Petitioner.
 Ms.M.P.Thakur, AGP for the Respondent Nos.1 and 2.
 Mr.Mandar Limaye, for the Respondent No.3.

**CORAM: A. S. OKA &
REVATI MOHITE DERE, JJ.**

DATED : 29th JULY, 2015.

P.C.

1. Heard the learned senior counsel appearing for the petitioner, the learned counsel appearing for the third respondent and the learned AGP appearing for the first and second respondents.

2. On 4th February, 2013 No Objection Certificate was issued by the State Government for implementation of Slum Rehabilitation Scheme in accordance with Appendix – 'S' read with Regulation No.165 of the

Development Control Regulations of the third respondent – Thane Municipal Corporation.

3. The grievance made in this petition is as regards the action of the Collector of sending the No Objection Certificate issued by the State Government for modification along with the letter dated 5th May, 2015. The grievance made in this petition is that the No Objection Certificate dated 4th February, 2013, needs no modification. It is urged that under the orders passed this Court in Writ Petition No.70 of 2014 steps were taken to execute the lease in a similar case based on a similar No Objection Certificate.

4. Today an affidavit of Shri Vikas P. Patil, Tahsildar, Thane is tendered on record. In the said affidavit it is contended that in view of the subsequent modification to Appendix – 'S' (Regulation No.165) made on 11th September, 2014 the No Objection Certificate dated 4th February, 2013 has been sent to the State Government for obtaining concurrence. In the affidavit it is pointed out that even before executing the lease in favour of Shrikrushna Co-operative Housing Society Limited (the Petitioner in Writ Petition No.70 of 2014), the concurrence of the State Government was

sought by the Revenue Department. It is stated in the affidavit that after receipt of the decision on the proposal submitted by the Collector, steps will be taken immediately to execute the lease deed.

5. The petitioner is relying upon the case of Shrikrushna Co-operative Housing Society Limited, the Petitioner in Writ Petition No.70 of 2014. The submission of the learned Senior Counsel appearing for the petitioner is that in view of clauses (1) and (7) of the No Objection Certificate dated 4th February, 2013 even after modification made on 11th September, 2014 the concurrence of the State Government to the earlier No Objection Certificate is not necessary.

6. We have carefully perused the affidavit of Shri Vikas P. Patil, as well as the letter dated 5th May, 2015. All that the Collector has done is to seek concurrence of the State Government in the light of the modification made on the basis of the notification dated 11th September, 2014.

7. Though the case made out by the petitioner is that the modification dated 11th September, 2014 will not affect the case of the petitioner, we find nothing wrong with the approach of the Collector when

he sought concurrence of the State Government by forwarding the No Objection Certificate dated 4th February, 2013 to the State Government. On the basis of the No Objection Certificate, the Collector is required to execute the lease in favour of the petitioner. Hence, he was justified in seeking concurrence before executing lease in respect of a valuable property. Though there is no reason to find fault of the Collector, the State Government will have to take a decision at the earliest. Accordingly, we dispose of the petition by passing the following order :-

ORDER

- 1) We direct the State Government to take appropriate decision on the proposal dated 5th May, 2015 submitted by the District Collector as expeditiously as possible and in any event on or before 29th August, 2015 ;
- 2) On receipt of the decision of the State Government, appropriate steps shall be taken to execute the lease deed as expeditiously as possible and in any event within a period of two months from the date on which the decision of the State Government is received by the Collector ;
- 3) The petition is disposed of on above terms.

(REVATI MOHITE DERE,J.)

(A.S. OKA,J.)