

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELATE JURISDICTION
WRIT PETITION NO.9488 OF 2014

Mr.S.U.Kamdar, Senior Advocate a/w Mr.Chirag Mody
and Sridhar Chari i/b DSK Legal for the petitioners
Ms S.V.Bharucha & Mohamedali M. Chunawala for the
respondent No.1
Ms Sharmila Deshmukh for respondent No.3
Mr.Sandeep Marne for respondent No.4
MR.B.B.Sharma for respondent No.5

2 Our attention is invited to the communication dated 16th March 2012 addressed by the fourth respondent-Municipal Corporation to the third respondent-the Maharashtra Coastal Zone Management Authority. The said letter refers to the proposal submitted by the petitioner for grant of Occupation Certificate in respect of the building on plot No.7-B, Sector No.11, C.B.D. Belapur, New Bombay. The

said letter records that the proposal was being forwarded for the approval of the third respondent. It is stated in the said letter that the building occupancy certificate can be issued only after getting No Objection Certificate of the third respondent.

3 The learned counsel for the third respondent has placed on record minutes of the 97th Meeting of the third respondent held on 23rd January 2015. The minutes are taken on record and marked 'A' for identification. Item No.3 in the said meeting was regarding the grant of No Objection Certificate by the third respondent to enable the fourth respondent to consider the application for grant of Occupation Certificate. The resolution records that since the commencement certificate predates the Maharashtra Coastal Zone Management Plan of 1996, it is for the Planning Authority to take appropriate decision at its own level. The learned counsel for the fourth respondent submits that the resolution does not refer to the fact that the modified commencement certificate was granted in the year 2003.

4 The fourth respondent could not consider the proposal for grant of Occupation Certificate due to want of No Objection Certificate by the third respondent as is clear from the communication dated 16th March 2012 (Exh.T to the petition). Now the resolution of the third respondent is that its No Objection Certificate is not required. From the letter dated 16th March 2012 it appears that the

fourth respondent had forwarded the entire proposal for grant of Occupation Certificate to the third respondent.

5 Therefore, now the fourth respondent cannot insist upon the production of the No Objection Certificate of the third respondent. Hence, this petition need not be kept pending and the same is disposed of by passing the following order:

(I) The first part of the prayer clause (a) of this petition does not survive in view of the resolution passed by the third respondent on 23rd January 2015;

(II) In the light of the resolution dated 23rd January 2015, the fourth respondent shall proceed to consider the application made by the petitioner for grant of Occupation Certificate in accordance with law and shall pass a final order thereon within a period of one month from today;

(III) Writ Petition is disposed of on above terms.

(A.K.MENON,J.)

(A.S.OKA,J.)