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

WRIT PETITION NO.9481 OF 2012

'F' Type Apartment Owner's Association ... Petitioners
(Condominium No.14)

Vs.

City and Industrial Development Corporation and Ors. ... Respondents

Ms. Kiran Bagalia a/w Mr. K.J. Reddy, for the Petitioners.

Mr. G.S. Hegde i/by M/s. G.S. Hegde & Associates, for Respondent No.1

Mr. V.S. Gokhale, AGP, for Respondent No.2.

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

DATE : 27th JANUARY, 2015

PC.

. Heard the learned counsel appearing for the Petitioners and the learned counsel appearing for the first Respondent. The learned counsel appearing for the Petitioners states that an application made by the Petitioners for grant of No Objection Certificate (NOC) to the first Respondent is still pending. On instructions, she states that as NOC has not been granted, there is no Commencement Certificate granted by the third Respondent – Municipal Corporation. The learned counsel appearing for the first Respondent states that on the application made by the Petitioners, NOC has not been granted.

2. In view of this factual position, it is not necessary to go into the wider issues raised in the Petition. The Government Resolution dated 15th December, 1994 incorporating the directions under Section 154 of the Maharashtra Regional and Town Planning Act, 1966 (for short “the MRTP Act”) makes it very clear that the third Respondent – Municipal Corporation shall act as the Planning Authority for the areas specified in Clause (i) of the directions contained therein and that the third Respondent shall exercise all the powers of the Planning Authority for the purposes of Chapters III and IV of the MRTP Act.

3. Clause (iv) of the same directions incorporates a direction that the third Respondent should insist on the developers obtaining No Objection Certificates from the first Respondent CIDCO, before giving development permissions as recovery of lease premium/delayed payment charges, etc. has to be made by the first Respondent from the lessees.

4. From the annexures to the Petition and in particular Exhibit 'B' to the Petition, it appears that the Petitioners are willing to pay requisite lease premium to the first Respondent. Hence, CIDCO will have to take final decision on the application made by the Petitioners for grant of NOC. As the application for grant of NOC is kept pending

by the first Respondent – CIDCO for no reason, it is obvious that demand for the payment of premium/delayed payment, etc. can be made as per the rates applicable as on the date on which the application for grant of NOC was made by the Petitioners.

5. At this stage, it is not necessary to go into the larger issue regarding the scope of powers which can be exercised by the first Respondent for grant of NOC to enable the Municipal Corporation to issue Occupancy Certificate.

6. At this stage, the learned counsel appearing for the first Respondent submits that the application for grant of NOC was kept pending by the first Respondent as the State Government was supposed to decide certain issues. However, he accepts that there was no restraint order passed by the State Government preventing the first Respondent from deciding the application for grant of NOC made by the Petitioners.

7. Hence, the Petitioners cannot be allowed to suffer as all along they offered to pay lease premium and other charges payable to the first Respondent as a condition for grant of NOC.

8. Hence, we dispose of the Petition by passing the following order :-

ORDER

- (i) We direct the first Respondent to decide the application made by the Petitioners for grant of NOC to the first Respondent - CIDCO to enable the third Respondent to consider the application for grant of development permission made by the Petitioners. Application shall be decided as expeditiously as possible and in any event within a period of two months from today;
- (ii) As stated earlier, the premium and other charges payable by the Petitioners shall be as on the date on which the Petitioners made the application (i.e. 2nd April, 2012);
- (iii) In the event of failure of the first Respondent to decide the application for grant of NOC within the stipulated time, it will be open for the Petitioners to move this Court for seeking appropriate directions against the first Respondent - CIDCO;
- (iv) The Petition is disposed of on above terms;
- (v) All concerned to act upon an authenticated copy of this order.

(A.K. MENON, J)**(A.S.OKA, J)**