

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2952 OF 2014

Phalke Niketan Co-operative Housing
Society Ltd.

... Petitioner

Vs.

Municipal Corporation of Greater Mumbai & anr. ... Respondents

Mr.Uday Warunjikar for the Petitioner

Mr.S.U. Kamdar, Sr.Advocate, a/w Ms.Vandana Mahadik for Respondent
No.1

Mr.D.A. Nalavade, Government Pleader, for Resp. No.2

**CORAM: SMT. VASANTI A. NAIK &
SHRI C.V. BHADANG, JJ.**

DATE: 3rd MARCH, 2015

P.C.:

Heard.

By this petition, the petitioner seeks a writ, order or direction to the respondent No.1 for taking a decision on the application for issuance of commencement certificate within a time frame.

It appears that during the pendency of the Writ Petition, in terms of the order dated 12.11.2014, the petitioner was heard by the Executive Engineer, Building Proposals and the said officer has rejected the application filed by the petitioner for grant of commencement certificate.

According to the Executive Engineer - Building Proposal, the plans submitted by the petitioner are not in conformity with the judgment passed by the hon'ble Supreme Court in C.A. No.11150 of 2013. The Executive Engineer has, therefore, asked the petitioner to resubmit the modified plan incorporating 6 metres clear open space free from any projections, so that the request for grant of approval could be considered.

Since the only prayer made by the petitioner was for a direction to the Corporation to consider the proposal of the petitioner for grant of the commencement certificate and since the Executive Engineer has rejected the application filed by the petitioner on the ground that the plans are not in conformity with the judgment of the hon'ble Supreme Court, the only prayer made by the petitioner stands answered. If the petitioner is aggrieved by the order of the Executive Engineer rejecting the application for grant of commencement certificate, the petitioner is free to take appropriate steps.

In view of the aforesaid, we dispose of the Writ Petition with no order as to costs. All points raised in the petition are kept open.

(C.V. BHADANG, J.)

(VASANTI A. NAIK, J.)