

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION No. 1601 OF 2016
IN
WRIT PETITION NO. 7458 OF 2014

South Indian Education Society.	..Applicant.
<i><u>In the matter of</u></i>	
South Indian Education Society.	..Petitioner.
<i><u>Versus</u></i>	
CIDCO & Others.	..Respondents.

Mr. S. C. Naidu, Nandini Menon, Nilima Sanglikar and Amit Kakri i/b Little & Co., for the Applicant / Petitioner.
Mr. R. S. Apte, Senior Advocate with Mr. Ashutosh M. Kulkarni for Respondent No. 1 to 5.

Coram : RANJIT MORE &
Smt. ANUJA PRABHUDESSAI, JJ.
Date : **September 8, 2016.**

P. C. :

1. Heard Mr. Naidu, learned Counsel appearing for the Petitioner and Mr. Apte, learned Senior Counsel appearing for Respondent Nos.1 to 5. The present civil application is filed seeking directions to Respondent No.1 to issue "No-Dues-Certificate" and "No-Objection Certificate".
2. Mr. Naidu submitted that in the absence of "No-Dues-Certificate" and "No-Objection Certificate" from CIDCO (Respondent No. 1), the Navi Mumbai Municipal Corporation is unable to issue Occupation Certificate. Mr. Apte, learned Senior Counsel submitted

that “No-Dues-Certificate” is not issued as the Applicant did not complete the construction on the plot allotted by Respondent No.1 as stipulated in the letter dated 20th October 2010 for enhanced FSI for 3rd and 4th floors.

3. There is no dispute that so far as 1st and 2nd floors are concerned, the Occupation Certificate is already granted. The dispute is about the date of completion of construction of 3rd and 4th floors. As per the grant of enhanced FSI to the Applicant by the Respondent – CIDCO under letter dated 20th October 2008, the Applicant was obliged to complete the construction of said 3rd and 4th floors within the period of four years, i.e., before 19th October 2012.

4. Mr. Naidu, learned Counsel appearing for the Petitioner placed on record a letter dated 2nd July 2012 issued by the Assessor & Collector, Navi Mumbai Municipal Corporation to the Applicant as well as notice issued by the Commissioner, Navi Mumbai Municipal Corporation dated 18th July 2012. Both these documents show that the Applicant not only completed the construction but also occupied 3rd and 4th floors of the building on the plot allotted by CIDCO within the stipulated period of four years.

5. Be that as it may, show cause notice issued by the Manager (Town Services-I) dated 20th July 2012 to the Secretary of the

Applicant show that the site visit was made by the officers of the CIDCO prior to the issuance of this notice. By this notice, an objection was taken that the Applicant has permitted to establish and conduct the business of a bank in a building on plot 1/E and has established kiosks for commercial use which is contrary to the terms and conditions of the allotment order. The said show cause notice does not indicate the objection of Respondent No.1 about the non completion of the construction within the stipulated time.

6. The above facts substantiate the contention of the Applicant that construction was already completed within the stipulated period of four years or at any rate as on the date of the inspection made by the officers of the CIDCO. The CIDCO cannot therefore withhold the “No-Dues-Certificate” and “No-Objection Certificate” without there being any material on record. The application is accordingly allowed in terms of prayer clause (a). The CIDCO shall issue “No-Dues-Certificate” and “No-Objection Certificate” to the Applicant as expeditiously as possible and at any rate within the period of two weeks from today.

7. At this stage, Mr. Apte, the learned Senior Counsel appearing for CIDCO seeks stay to the operation of this order. Since we find that there is enough material on record to show that construction was completed within the stipulated period and the Applicant has

already given an undertaking in Writ Petition No. 6725 of 2016 that Occupation Certificate would be submitted to the AICTE before 30th September 2016, we are not inclined to grant stay. Prayer for stay is, therefore, rejected.

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]