

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 740 OF 2016

M/s.Vighnaharta Builders and
Projects Pvt.Ltd. .. Petitioner
Vs.
The Additional Municipal Commissioner
(Eastern Suburb) and ors. .. Respondents

Mr.Milind Sathe, Senior Advocate a/w Mr.Shushrut Desai,
Mr.Anil Jariyal a/w Mr.PG.Lad a/w Ms.Sayli Apte i/b Ms.Aparna
Murlidharan Kalathil, for the Petitioner.

Mr.S.U.Kamdar, Senior Advocate a/w Mr.Chirag Balsara,
Mr.S.B.Pawar, Ms.Swati Sawant and Ms.Nikita Jacob i/b
M/s.S.K.Legal Associates, for Respondent No.4.

Mr.A.Y.Sakhare, Senior Advocate a/w Mr.Joel Carlos and
Ms.Shobha Ajitkumar, for Respondents No.1 to 3 - BMC.

Ms.Geeta Shastri, Additional Government Pleader for
Respondent No.5 - State.

**CORAM : SHANTANU.S.KEMKAR &
M.S.KARNIK, JJ.
DATE : 08th JULY, 2016**

PC. :

. Heard the parties through their Counsel.

2. We have heard the matter at length. After arguing
the Petition at length, learned Senior Counsel for the petitioner,

on instructions, has stated that the petitioner may be permitted to withdraw this Writ Petition with liberty to the petitioner to challenge the action of the respondents No. 1 to 3 – Corporation before the Civil Court by filing a Civil Suit. He, however, makes a prayer that till the petitioner files a Suit and applies for temporary injunction, interim protection granted by this Court on 21/04/2016 be continued. Learned Counsel appearing for the respondents No. 1 to 3 - Corporation submits that the interim protection may be granted only for a limited period so that there may not be any further delay in the project. He also submits that the petitioner may be directed to deposit Rs. 22 Crores and odd.

3. Having considered the prayer made by the learned Senior Counsel for the petitioner and submissions made by learned Senior Counsel for the respondents No. 1 to 3 – Corporation, we allow the petitioner to withdraw this Writ Petition with liberty to the petitioner to file a Civil Suit challenging the action of the respondents No. 1 to 3. We also continue the interim order dated 21/04/2016 for a period of 6

weeks from today enabling the petitioner to file Civil Suit and to pray for interim relief. However, we decline the prayer made by the learned Senior Counsel for the respondents No. 1 to 3 – Corporation to direct the petitioner to deposit Rs. 22 Crores and odd as assessed by them in the impugned communication which according to the petitioner is a disputed amount. Needless to say that we have not expressed our opinion about the merits of the matter and the Civil Court will be free to decide the matter on its own merits in accordance with law and shall not be influenced by the interim protection granted by this Court or any observations made in this order. Writ Petition is accordingly disposed of as withdrawn.

(M.S.KARNIK, J.)

(SHANTANU.S.KEMKAR, J.)