

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2799/2016
IN
WRIT PETITION NO.6751/2015

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Simil Purohit with Dhaval Mehta with Rima Paradkar i/b. D. M. Legal Associate for the applicant

Mr. V. B. Naik, Senior Advocate with Sharan Jagtiani with Sheetal Shah i/b. M/s. Mehta & Girdharilal for the petitioner

Mr. A. Y. Sakhare, Senior Advocate with A. B. Vagyani, GP with S. H. Kankal, AGP with R. S. Sawant, AGP for respondent Nos.1 to 4.

CORAM : K. K. TATED, J.

DATE : JULY 19, 2017

P.C.:

1. Heard. The learned Sr.counsel for the respondent State filed Affidavit-in-Reply dated 18.07.2017 duly affirmed by mr. Sudam Amarsingh Pardeshi, SDO, Thane. Same is taken on record.

2. In the said Affidavit-in-Reply, the State Government has specifically stated in paragraph 11 that they have no objection to allow the Civil Application in terms of prayer clause (b).

Paragraph 11 reads thus:

“11. In view of the above, I say and submit that the Respondents have no objection to this Hon'ble Court allowing the present civil application in terms of prayer clause “B” of the present Civil Application thereby clarifying that the Ad-interim Orders dated 16th July, 2015 and 6th August, 2015 do not prevent and restrain the Respondent No.2 from issuing Class I certificate in respect of Applicant's property, as the same only amounts to the Respondent No.2 providing the requisite information to the concerned planning authority i.e. Mira Bhayander Municipal Corporation pursuant to Section 42 A of the said Code and thus I say and submit that the Respondents have no objection if the present civil application is allowed in terms of prayer clause (B).”

3. The learned senior counsel for the petitioner submits that without admitting whatever stated by the State Government in their Affidavit-in-Reply, they are giving their consent for allowing the Civil Application. They are denying the contents of the Affidavit-in-Reply filed by the State Government. Same is accepted.

4. The learned senior counsel for the petitioner submits that they have also filed Affidavit-in-Reply in the Civil Application. In paragraph 19 of their Affidavit-in-Reply they have specifically stated that

they have no objection to allow the Civil Application. Paragraph 19 reads thus:

“19. With reference to paragraphs 8, 9, 10 and 11 of the civil application, the petitioners have no objection if the Revenue Authorities including respondent No.2 grants permission, on merit, to the intervenor and/or any other party to whom the petitioner have granted NOC in writing and/or executed a Deed of Release in their favour and to those in the future.”

5. Hence, considering the Affidavit-in-Reply filed by the State Government as well as the petitioner, by consent of the parties, Civil Application is allowed in terms of prayer clause (b), which reads thus:

“(B) That this Hon'ble Court be pleased to decalre and clarity that the order of status quo dated 16th July 2015 in the Writ Petition being Exhibit- A hereto and the communication dated 1st June 2016 issued by the respondent No.2 being Exhibit- B hereto is not applicable to and does not affect the said property of the applicant and that the order of status quo passed in the above matter will not be coming in the way of the respondent No.2 in processing the application of the applicant for N.A. application filed in February 2016 on account of the petitioner itself having issued NOC's dated 16th October 2010 being Exhibit- D and E and executed deeds of release dated 22nd February 2013 being Exhibit- F and G hereto.”

6. Civil application stands disposed off accordingly.

7. Office is directed to place the Writ Petition on board on 21.08.2017 for admission.

JUDGE