

psv

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

WRIT PETITION (L.) NO.992 OF 2017

Sheetal Sagar Builders and Developers & Anr.	..Petitioners
Vs.	
Maharashtra Housing and Area Development Authority & Ors.	..Respondents

Mr.Milind Sathe with Mr.Vishwajeet S. Kapse for petitioners.
 Ms.Sharmila Deshmukh for Respondent No.1.
 Mr.T.N. Khandare with Mr.S. Rupawate for Respondent No.3.
 Mr.Prashant G. Karande for Respondent No.4.
 Ms.Yamuna Parikh for MCGM.

**CORAM : SHANTANU S. KEMKAR AND
G.S. KULKARNI, JJ.**

DATE : 9th OCTOBER 2017

P.C.:

1. Challenge in this petition is to the order passed by the Chief Officer, MBRR Board, MHADA, which reads thus:

“The Developer shall submit new plan for proposed saleable building with MCGM by keeping the structure of Buddha Vihar at the same place which is now in existence. For this, Buddha Vihar Sangh shall make correspondence with MCGM. In the said correspondence, the said Buddha Vihar Sangh shall grant NOC to sanction the new plan by mentioning that the structure of Buddha Vihar shall remain as it is where it is in existence. If MCGM, refused to grant sanction to new plan then in that event and in pursuance to NOC granted under Regulation 33(7) of D.C. Regulations, the Buddha Vihar Sangh shall cooperate the developer and further

the said Buddha Vihar shall revise their earlier own decision.”

2. The learned Counsel for the petitioners submits that it may not be possible for the petitioners to submit a fresh plan keeping the structure of Buddha Vihar at the same place where it is in existence. He submits that the petitioners may be permitted to submit a new plan before the Municipal Corporation specifying the new location for the structure of Buddha Vihar and the Municipal Corporation be directed to take appropriate decision on it. The petitioners have shown the proposed place for structure of Buddha Vihar in green colour of the new plan. The same is taken on record and marked as Exhibit 'X' for identification.

3. The learned Counsel appearing for the respondent No.1 as also learned Counsel for the respondent No.3 submit that the Municipal Corporation may be directed to consider the petitioners' new plan, but before taking any decision by the Municipal Corporation, the respondent Nos.1 and 3 should also be given an opportunity to make their submissions.

4. Having regard to the aforesaid, as agreed by the learned Counsel for the parties, we direct the Municipal Corporation to consider the petitioners' new plan of shifting of Buddha Vihar at another location shown in green colour of new plan Exh.X. The new plan be submitted by the petitioners to the Municipal Corporation within two weeks from today. The competent authority of the Municipal Corporation shall take an appropriate

decision in regard to sanction of the said plan after giving due opportunity of hearing to the petitioners as also the respondent Nos.1 and 3. Let the decision be taken by the Municipal Corporation within four weeks from the date of receipt of new plan.

5. With the aforesaid directions, keeping all the contentions of the parties open, we dispose of this petition.

[G.S. KULKARNI, J.]

[SHANTANU S. KEMKAR, J.]