

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 432 OF 2014**

Kshitija Infrastructure Private Limited & anr. ..Petitioners.

Vs.

Maharashtra Housing and Area Development Authority & ors. **..Respondents.**

Mr. Cyrus Ardhesir a/w. Mr. Ravi Gandhi and Mr. M.A. Kamdar i/b. Kanga & Co., for the Petitioners.

Mr. Vaibhav M. Parashurami, for the Respondent Nos. 1 to 3.

Mr. Joseph B. Fernandes, for the Respondent Nos. 5 to 30.

Mr. Shital Mane, for the Respondent No. 4-MCGM.

**CORAM : R. M. SAVANT &
SMT.SADHANA S. JADHAV, JJ
DATE : 12th JULY, 2017**

P.C.

1 The learned Counsel for the parties i.e. Shri Cyrus Ardheshir for the Petitioners and Shri Fernandes for the Respondent Nos. 5 to 30 tender the Minutes of the Consent Order bearing today's date. The said Minutes of the Consent Order record the arrangement arrived at between the Petitioners and the Respondent Nos. 5 to 30. The Minutes of the Consent Order have been signed on behalf of the Petitioners by Shri Kamlesh Mehta, Director of the Petitioner No. 1. The Minutes of the Consent Order have also been signed by the Secretary of the Tenants' Association Shri Rawji Laxman Gawde and by the

Respondent No. 27 Gudla Swami Limbanna. The Minutes of the Consent Order have also been signed on behalf of the Advocates for the Petitioners M/s. Kanga and Company by Shri Ravi Gandhi and by the Advocate on record for the Respondent Nos. 5 to 30 Shri Joseph Fernandes. To the Minutes of the Consent Order is annexed the authority letter dated 31/5/2014 to which is annexed the list of 25 persons who are occupants/tenants and who have authorised Mr. Rawji Laxman Gawde, Secretary of the Tenants' Association to sign the Consent Terms. The Minutes of the Consent Order contain mutual undertakings. The Minutes of the Consent Order are paginated from 1 to 6. Out of the Respondents, Respondent No. 5, 8, 11, 13, 15, 23, 24, 26, 27 and 28 are personally present in the Court.

2 On behalf of the Petitioners, the Director Mr. Kamlesh Mehta is also personally present in the Court. Mr. Mehta, the Director is identified by Mr. Ravi Gandhi, Partner of Kanga and Company, Advocates for the Petitioners. He is also identified by his Adhar Card bearing No. 9476 2900 0530. When put in the box and queried Shri Kamlesh Mehta states that he has read the Minutes of the Consent Order and that he is agreeable to them and that he had signed the same of his own free will and volition.

3 Mr. Rawji Laxman Gawde, who is Secretary of the Tenants'

Association is identified by Shri Joseph Fernandes and is also identified by his Adhar Card bearing No. 5587 8084 9659. When put in Box and queried, he states that the Minutes of the Consent Order have been explained to him by the learned Counsel Shri Fernandes and that they are acceptable to him, as also to the persons who have authorised him to sign the Minutes of the Consent Order. He further submits that he has signed them of his own free will and volition pursuant to the authorisation given by the said 25 tenants/occupants.

4 The Respondent No. 27 Gudla Swami Limbanna is also personally present in the Court. He is identified by Shri Joseph Fernandes. He is also identified by his Adhar Card bearing No. 8969 5895 2981. When put in the box and queried, he stated that the contents of the Minutes of the Consent Order are acceptable to him and that he has signed the same on his own free will and volition.

5 The Respondent No. 28 Shri Santosh Machha is also personally present in the Court. He states that he has been explained and made to understand the Minutes of the Consent Order. He states that the same are acceptable to him. Both, he and Mr. Gawde state that the other Respondents who have been mentioned hereinabove are personally present in the Court.

6 The Minutes of the Consent Order are taken on record and marked as “X” for identification. The attendance-sheet of the persons who are personally present in the Court is also taken on record and marked as “Y” for identification.

7 In view of the arrangement arrived at between the parties pursuant to which the Petitioners are implementing the scheme under Section 33(7) they would have to fulfill their obligations towards the Respondent Nos. 5 to 30.

8 The Respondent No. 4 Municipal Corporation of Greater Mumbai is therefore directed to expedite issuance of commencement certificate to the Petitioners.

9 In view of the aforesaid, the above Writ Petition to stand disposed of in terms of the Minutes of the Consent Order.

[SMT.SADHANA S. JADHAV,J]

[R.M.SAVANT, J]