

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

WRIT PETITION NO.2645 OF 2016

Office Notes, Office Memorandum - Coram, Appearances, court's orders or directions and Prothonotary's orders	Court's or Judge's orders
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Mr.Virag Tuljapurkar Sr.Advocate a/w Mr.Sanjay Kadam, Ms.Apeksha Sharma, Mr.Sanjeel Kadam, Mr.Deepak Enakphale, Ms.Sayalee Rajpurkar i/b M/s.Kadam and Co. for the petitioners

Mr.Milind Sathe, Sr.Advocate a/w Mr.PG.Lad for the respondent

Mr.Pradeep Pawar, Dy.Engineer, R.E.Department present in court

CORAM : K. K. TATED, J.

DATE : FEBRUARY 14, 2017

P.C.:

1 Heard.

2 By this petition under Article 226 of the Constitution of India the Petitioner is challenging the order dated 15.6.2016 issued by respondent no.1 rejecting their proposal for re-development of the property bearing C.S. No.251 of Tardeo Division, admeasuring 1342.89 sq.mtrs. with structure bearing 71D and 71E situated at Dr.Dadasaheb Bhadkamkar Road, Mumbai 400 008.

3 The learned Senior Counsel for the petitioner submits that bare reading of the letter cum order dated 15.6.2016 shows that MHADA rejected the proposal on two grounds; one matter is pending in the Apex Court and second petitioners showed one Mr.Pritesh Mohanlal Jain as owner of the property.

4 The learned Senior Counsel for the petitioner submits that Division Bench of this court by order dated 10.6.2015 in Writ Petition No.2490 of 2014 directed respondent MHADA to decide their proposal for re-development on its own merits where MHADA gets maximum benefits. He submits that as soon as they learnt that MHADA has raised objection about the ownership of the suit property, immediately they by letter dated 30.6.2016 clarified the fact that by mistake they showed one Mr.Pritesh Mohanlal Jain as owner. They submit that the petitioner Society is owner of the suit property. Hence, letter cum order dated 15.6.2016 is required to be set aside.

5. The learned senior counsel for the MHADA submits that they have not rejected the petitioner's proposal for redevelopment by letter-cum-order dated 15.06.2016 on the ground of pendency of the matter in Apex Court and as the petitioner shown one Mr. Pritesh Mohanlal Jain, as owner of

the property. He submits that their main contention for rejecting the petitioner's proposal for redevelopment of the property was that the proposal as submitted by the petitioner under Rules 33(7) read with Appendix-III of the Development Control Regulations for the Greater Mumbai 1991 was not maintainable. He submits that the petitioner society can develop the property by availing FSI 2.00 as provided under Chapter VIII-A of MHADA Act.

6. The learned senior counsel for the MHADA, after taking instructions from the Advocate on record and Mr. Pradeep Pawar, Dy. Engineer, R.E. Department who is present in court makes a statement that they are ready to entertain the petitioners fresh application for redevelopment of property on its own merits without influencing and/or considering the earlier letter-cum-order dated 30.06.2016.

7. At this stage, the learned Senior Counsel for the petitioner after taking instructions from the advocate on record makes a statement that petitioners are ready and willing to file fresh application for re-development of the property within two weeks from today.

8 In view of the statement made by the

learned Senior Counsel for the MHADA, that MHADA is ready and willing to consider the petitioner's fresh application on its own merits without influencing the earlier order dated 15.6.2016, in the interest of justice, following order is passed:

- a) Petitioner is permitted to file fresh proposal for redevelopment of the suit property within two weeks from today with the MHADA.
- b) If proposal is filed within two weeks from today, respondent MHADA is directed to consider the same, on its own merits, without influencing the earlier letter cum order dated 15.6.2016, by giving hearing to the petitioner, within 6 weeks and communicate decision in writing to the petitioners.
- c) All contention of both the parties are kept open.
- d) Writ Petition stands disposed of accordingly.

Parties to act on authenticated copy of this order.

JUDGE