

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

WRIT PETITION NO.957 OF 2018

Subhash Ramrao Sagar

...Petitioner

Versus

The State of Maharashtra & Ors.

...Respondents

....

Mr. Vishal Kanade with Ms Tanmayi Rajadhyaksha, Mr. Amit Karle i/b. M/s. S.K. Legal Associates for the Petitioner.

Mr. L.T. Satelkar, AGP for the Respondent No.1-State.

Mr. A.V. Anturkar, Senior Advocate with Ms Shyamli Gadre with Mr. Pranav Thakur i/b. M/s. Little and Co. for the Respondent No.2-MIDC.

Mr. Milind Sathe, Senior Advocate with Mr. Rakesh Sawant for the Respondent No.3-MMRCL.

Mr. Sagar Patil for the Respondent No.4-MCGM

Ms Pooja Thorat with Mr. Ankul Seth for the Respondent No.5.

Mr. Pawan Sagar with Mrs. Aruna Tawde, son and daughter respectively of the Petitioner are present in-person.

**CORAM : RANJIT MORE AND
SMT. ANUJA PRABHUDESSAI, JJ.**

DATED: 7th AUGUST, 2018.

P.C.:-

By this petition filed under Article 226 of the Constitution of India the Petitioner is challenging the three notices dated 28th February, 2018 at Exhibits -A1 to A3 and the impugned decision dated 16th March, 2018. By the said notices /decision the Petitioner is directed to handover possession of the Units No.746, 747 and 748. It

is not disputed that the Petitioner in lieu of these three units is entitled for one unit admeasuring about 269 sq. ft.

2. The Respondent No.2 has placed on record letter dated 26th July, 2018 addressed by the Respondent No.5 -Hubtown Ltd. (formerly known as Akriti Nirman Pvt. Ltd.) to the Deputy Engineer, MIDC, which reads thus:-

“As per instruction of MIDC, with reference to writ petition no.(st) 957 of 2018. We Hubtown Ltd. (Formerly known as Akruti Nirman Pvt.Ltd.) are ready to hand over the 1(one) no. commercial gala/unit to Mr. Subhash Ramrao Sagar the petitioner in Writ Petition (L) No.957 of 2018 admeasuring 269 sq. ft. carpet area at ground floor in at Pocket no.5 Rehab-1 within 1 month or Pocket no.6 within 6 months.”

3. The said letter is taken on record and marked 'X' for identification.

4. Mr. A.V. Anturkar, the learned counsel for the Respondent No.2-MIDC states that out of 67 units, the occupants of 64 units have

been provided alternate accommodation at villages-Kurla, Kanjurmarg and Chakala. It is stated that though the Petitioner claims to be in possession of three units i.e. Units No.746, 747 and 748, he is entitled for one unit. The learned counsel for the Respondent No.2 makes a statement that in lieu of Units No.746, 747 and 748 the Petitioner will be provided one unit admeasuring 269 sq ft. in village Marole either from pocket No.5 or pocket No.6, as stated in the letter dated 26th July, 2018. In the event, the Petitioner opts for unit in Pocket No.5, possession of the same will be given within a period of one month whereas in the case of unit in Pocket No.6, possession will be given within a period of six months.

5. Mr. Milind Sathe, the learned senior counsel for the Respondent No.3-MMRCL, under instruction, has also made a statement that the Petitioner will be paid compensation of Rs.11,000/- per month until possession of unit admeasuring 269 sq. ft. is handed over to him.

6. Mr. Vishal Kanade, the learned counsel for the Petitioner, under instructions, submits that in lieu of three units No.746, 747 and 748 the Petitioner is ready to accept the offer of alternate premises i.e.

one unit admeasuring 269 sq.ft at Pocket No.6 at village-Marole. He further submits that the Petitioner shall handover possession of the three Units No.746, 747 and 748 to the Respondent No.2 within a period of one week from today.

7. The aforesaid statements made on behalf of the Petitioner, the Respondent No.2 and the Respondent No.3 are accepted as undertakings to the Court.

8. The Petitioner submits that he will surrender the whole stock of unsold liquor to the Collector-Excise as required under Rule 61 of the Bombay Foreign Liquor Rules, 1953. The learned counsel for the Petitioner further submits that upon taking possession of the unit in Pocket No.6, the Petitioner will seek transfer of liquor license.

9. Mr. L.T. Satelkar, the learned AGP for the Respondent-State, under instructions, states that Collector-Excise shall cooperate and shall take possession of the stock of unsold foreign liquor from the Petitioner and will comply with mandate of Rule 61 of Bombay Foreign Liquor Rules, 1953, within a period of one week from the date of receipt of stock of unsold foreign liquor from the Petitioner. He further

states that as regards the transfer of license, the Petitioner is at liberty to seek such transfer upon following due process of law and that the same shall be considered expeditiously in accordance with law. Statements are accepted.

10. Subject to above, the petition is disposed of. It is made clear that since this order is passed with consent of the parties same should not be treated as precedent.

(SMT. ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)

Megha
Shridhar
Parab

Digitally signed
by Megha
Shridhar Parab
Date:
2018.08.09
18:34:47 +0530