

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.192 OF 2019

Unishire Homes LLP and anr. : Petitioners.
Versus
State of Maharashtra and anr. : Respondents.

ALONG WITH
CRIMINAL WRIT PETITION NO.193 OF 2019

Unishire Skyscapes LLP and anr. : Petitioners.
Versus
State of Maharashtra and anr. : Respondents.

ALONG WITH
CRIMINAL WRIT PETITION NO.194 OF 2019

Unishire Properties LLP and anr. : Petitioners.
Versus
State of Maharashtra and anr. : Respondents.

ALONG WITH
CRIMINAL WRIT PETITION NO.195 OF 2019

Unishire Regency Park LLP and anr. : Petitioners.
Versus
State of Maharashtra and anr. : Respondents.

ALONG WITH
CRIMINAL WRIT PETITION NO.196 OF 2019

Unishire Developers Pvt. Ltd. & ors. : Petitioners.
Versus
State of Maharashtra and anr. : Respondents.

ALONG WITH
CRIMINAL WRIT PETITION NO.197 OF 2019

Unishire Urbanscape Pvt. Ltd. & ors. : Petitioners.
Versus

State of Maharashtra and anr. : Respondents.

ALONG WITH
CRIMINAL WRIT PETITION NO.198 OF 2019

Unishire Estate & Properties Pvt. Ltd.
And ors. : Petitioners.

Versus
State of Maharashtra and anr. : Respondents.

Mr. Unaid Shabwany for the Petitioners in all Petitions.
Mr. Rajesh Kanojia i/by RES Juris for Respondent No.2.
Mrs. Rutuja Ambekar, APP for the Respondent/State.

CORAM : S. S. SHINDE, J
DATE : 24th September 2019

ORAL JUDGMENT :

1 Rule in all the above Writ Petition. With the consent of the learned counsel for the parties, Rule made returnable forthwith and heard.

2 These Petitions take exception to the order dated 22/10/2018 passed by the learned Metropolitan Magistrate, 33rd Court, Ballard Pier, Mumbai directing the accused to deposit 20% of cheque amount for interim compensation within 60 days from the date of the said order.

3 The learned counsel appearing for the Petitioners, relying upon the judgment of the Apex Court in the case of G J Raja v/s. Tejraj Surana in Criminal Appeal No.1160 of 2019 (arising out of Special Leave Petition (Criminal) No.3342 of 2019) decided on 30/07/2019, submits that the learned

Magistrate should not have directed the Petitioners to deposit 20% of cheque amount for compensation at the time of recording the plea in view of the insertion of Section 143A of the Negotiable Instruments Act, since the said provision would apply from the date on which the said provision is brought on the statute book.

4 The learned counsel for the contesting Respondent fairly submits that the ratio laid down in the aforesaid judgment of the Apex Court is squarely applicable in the facts of the present case.

5 In the light of the submissions made across the bar and keeping in view the exposition of law by the Apex Court in the case of G J Raja (supra), wherein it is observed that the applicability of Section 143A of the Act must, therefore, be held to be prospective in nature and confined to cases where offences were committed after the introduction of Section 143A, in order to force an accused to pay such interim compensation, the impugned order dated 22/10/2018 passed by the learned Magistrate to the extent of directing the Petitioners to deposit 20% of cheque amount for compensation within 60 days from the date of passing the impugned order cannot legally sustain. Hence the impugned order dated 22/10/2018 in all the above Writ Petitions is quashed and set aside. The Writ Petitions are accordingly allowed. Rule is made absolute to the aforesaid extent.

6 The learned counsel for the parties inform this Court that plea has already been recorded. Needless to observe that keeping in view of the provision of Section 143(3) of the Negotiable Instruments Act, and also the exposition of the Apex Court in the case of **Indian Bank Association and ors. versus Union of India and ors**, reported in **2014 DGLS 389** the learned Magistrate shall expedite the proceedings and take the same to its logical end at the earliest.

[S. S. SHINDE , J]