

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

WRIT PETITION NO.79 OF 2019

Radius Project Developers LLP }
(Formerly known as Vishwaroop }
Realty LLP) } **Petitioner**

Vs

The Union of India through the }
Secretary and Ors. } **Respondents**

Mr.P.K.Dhakephalkar, Senior Advocate
a/w Mr.Amol Mhatre, Ms.Asha Nair i/b
Diamondwala and Co. for the Petitioner.

Mr.Anil Singh, Additional Solicitor
General a/w Ms. Shilpa Kapil i/b Dushyant
Kumar for Union of India.

Mr.A.A.Kumbhkoni, Advocate General a/w
Mr.Ajay Khaire for Respondent No.3.

Mr.Nikhil Apte i/b Wadia Gandhi & Co. for
Respondent No.4.

Mr.Abhijit M. Patil i/b Vijay D. Patil for
Respondent No.5.

**WITH
WRIT PETITION NO.66 OF 2018
WITH
CHAMBER SUMMONS NO.148 OF 2017**

Parinee Developers Pvt. Ltd. } **Petitioner**

Vs

Appellate Committee-Height
Clearance and Ors. } **Respondents**

Dr.Milind Sathe, Senior Advocate a/w
Mr.Makrand V. Raut for the Petitioner.

Mr.Anil Singh, Additional Solicitor
General a/w Ms.Shilpa Kapil i/b Dushyant
Kumar for Union of India,

Mr.A.A.Kumbhkoni, Advocate General a/w
Mr.Ajay Khaire for Respondent No.3.

Mr.Nikhil Apte i/b Wadia Gandhi & Co. for
the applicant in Chamber Summons
No.148 of 2017.

**WITH
WRIT PETITION NO.2230 OF 2013**

Parineeta Co-operative Housing Society Limited	}	
	}	Petitioner
Vs		

Mumbai International Airport Private Limited and Ors.	}	
	}	Respondents

Ms.Aparna Devkar i/b M/S. M.P.Vashi and
Associates for the Petitioner.

Mr.Nikhil Apte i/b Wadia Gandhi & Co. for
Respondent No.1.

Mr.J.S.Saluja a/w Ms.S.J.Shah i/b
S.J.Shah and Co. for Respondent Nos.2
and 4.

Mr.A.A.Kumbhkoni, Advocate General a/w
Mr.Ajay Khaire for Respondent No.3.

**WITH
WRIT PETITION NO.2682 OF 2013**

A-Square Mico Developers and Ors.	}	
	}	Petitioners
Vs		

Secretary, Ministry of Civil Aviation Government of India and Ors.	}	
	}	Respondents

Dr.Milind Sathe, Senior Advocate a/w
Mr.Makrand V. Raut for the Petitioner.

Mr.Anil Singh, Additional Solicitor
General a/w Ms.Shilpa Kapil i/b Dushyant
Kumar for Union of India,

Mr.A.A.Kumbhkoni, Advocate General a/w
Mr.Ajay Khaire for Respondent No.3.

**WITH
CHAMBER SUMMONS NO.248 OF 2018
IN
PUBLIC INTEREST LITIGATION NO.86 OF 2014**

Airport Authority of India	}	Applicant
In the matter of :		
Yeshwant Shenoy	}	Petitioner
Vs		
The Union of India and Ors.	}	Respondents

**AND
CHAMBER SUMMONS NO.350 OF 2018
IN
PUBLIC INTEREST LITIGATION NO.86 OF 2014**

Sanjay Chhabria and Anr.	}	Applicants/ Interveners
In the matter of :		
Yeshwant Shenoy	}	Petitioner
Vs		
The Union of India and Ors.	}	Respondents

Mr.A.A.Kumbhkoni, Advocate General a/w
Mr.Ajay Khaire for the applicant in
Chamber Summons No.248 of 2018.

Mr.P.K.Dhakephalkar, Senior Advocate
a/w Mr.Amol Mhatre, Ms.Asha Nair i/b
Diamondwala and Co. for the Applicants
in Chamber Summons No.350 of 2018

Mr.Anil Singh, Additional Solicitor
General a/w Ms.Shilpa Kapil i/b Dushyant
Kumar for Union of India,

Mr.Nikhil Apte i/b Wadia Gandhi & Co. for
Respondent No.4.

**CORAM :- S. C. DHARMADHIKARI &
M. S. KARNIK, JJ.**

DATE :- FEBRUARY 14, 2019

P.C. :-

1. In Chamber Summons No. 248 of 2018 the prayers are that the applicant-Airport Authority of India be allowed to file the revised Aeronautical Reports in respect of 21 appellants and the earlier Aeronautical Reports may be placed on record, but this would be in the form of additional material.

2. The Airport Authority of India in its affidavit after outlining the issue and emphasising the point that the Mumbai Domestic and International Airport being one of the busiest in the world, on account of safety and security of passengers and the persons residing in the vicinity, the restrictions have been put in place. After the restrictions have been put in place, some of the persons and parties aggrieved by the same have preferred appeals. It is clear that during the course of considering the consequences flowing from this Court's order in the Public Interest Litigation and in a meeting convened for that purpose, it was decided that

the Aeronautical Study Reports in all cases should be re-examined by the Sub-Committee and the result of the said examination was to be placed in the next Appellate Committee meeting.

3. In 8 out of 45 Aeronautical Study cases, the reports were prepared as per the revised interpretation of 26th March, 2015 guidelines on allowable Penetration of OLS in Aeronautical Study, namely, calculation of distance from the end of Transition Surface and, hence, were not brought up for examination by the Sub-Committee. One case was also found to be peculiar and, therefore, 10 out of these 45 cases were disposed of and in relation to 35 cases, revised Study Report was prepared.

4. In 14 cases, there was no variance in revised Aeronautical Study Report when compared with the old Aeronautical Study Report for the requested heights and recommended heights. In the remaining 21 cases, there was variance of permitted height in the revised Aeronautical Study Report and old Aeronautical Study Report.

5. Therefore, the Appellate Committee in its meeting held on 22nd May, 2018, decided that the revised Aeronautical Study Report in 21 cases ought to be submitted before this Court.

6. After we have heard the learned senior counsel appearing on behalf of the appellants before the Appellate Committee and the learned Advocate General and the learned Additional Solicitor General for the Airport Authority of India, Union of India and the Director General of Civil Aviation respectively, it is agreed that this Chamber Summons (CHS/248/2018) can be disposed of with the following order and directions:-

- (a) Each of these revised Aeronautical Reports (in 21 cases) need not be kept on record of the proceedings before this Court. The public Interest Litigation was the main matter and it has been disposed of. The Chamber Summonses (CHS/248/2018 and CHS/350/2018), therefore, should not have been presented to this Court.
- (b) Now it is agreed that after these 21 Reports are placed before the Appellate Committee and the Appellate Committee is requested to take them into consideration, then, before they are taken into consideration and relied upon, copies of these Survey Reports should be provided to the respective appellants, including the petitioners before us, who have filed substantive writ petitions.

- (c) Before any final order is passed, the Appellate Committee should allow the appellants to make submissions on the contents of these Reports. After duly noting them, a reasoned order should be passed by the Appellate Committee.
- (d) The Additional Solicitor General of India says that the Appellate Committee will endeavour and dispose of all these 21 cases as expeditiously as possible and, in any event, by 15th May, 2019. We accept this statement as an undertaking to this Court.
- (e) It is also agreed that individual appeals would be taken up for consideration and every appellant need not remain present for there would not be a mass and comprehensive hearing. On specific dates and time assigned, each of the appellant to remain present and make his submissions, but before that, the copies of these Survey Reports be provided to them.

7. The Chamber Summons No.248 of 2018 is disposed of in terms of the above directions and by consent of all the parties.

8. In the light of the disposal of Chamber Summons No.248 of 2018, Chamber Summons No.350 of 2018 for intervention in that

Chamber Summons does not survive and stands disposed of as such.

9. In the light of the disposal of Chamber Summons No.248 of 2018, Writ Petition No.66 of 2018 along with Chamber Summons No.148 of 2017 and Writ Petition No. 3158 of 2018 do not survive and the same are disposed of in terms of the above order.

10. There will be no order as to costs.

(M.S.KARNIK, J.)

(S.C.DHARMADHIKARI, J.)