

dik-Nitin

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

WRIT PETITION (L) NO. 303 OF 2020

M/s S.N.Realtors

...Petitioner

vs

Municipal Corporation of Gr. Mumbai & Ors.

...Respondents

.....

Mr. Firoz Bharucha a/w Ghansham Harne i/b Pratap Nimbalkar for the
Petitioner

Mr. A.Y.Sakhare Sr. Counsel a/w Rupali Adhate and Yamuna Parekh for the
Respondent/M.C.G.M.

Mr. Karl Tamboly a/w Mr. T.N.Tripathi and Ms. Kalyani Wagle i/b
T.N.Tripathi and Co. for Respondent No.4.

Mr. Yatish Randeria, Asstt. Engineer, Building Proposals "N" and "L" Ward
present.

.....

**CORAM : S. J. KATHAWALLA &
B. P. COLABAWALLA, JJ.**

DATED 28TH JANUARY , 2020.

P.C. :

1. The Development proposal of Wings "A" and "B" was originally submitted to the Municipal Corporation by a common Architect on behalf of the Petitioner and Respondent No.4 herein. Thereafter, certain disputes arose between the Petitioner and Respondent No.4, which is resolved by filing Consent Terms, under which Wing "A" is agreed to be solely managed by Respondent No.4 and Wing "B" is to be exclusively managed by the Petitioner. The Petitioner herein has moved this Writ Petition for the following reliefs:-

"(a) *that this Court be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order or direction under Article 226 of the Constitution of India, directing Respondent Nos.1 to 3 to forthwith allow the*

Petitioner to appoint an architect of its choice, in accordance with law, for completing the construction of the “B” wing and apply for the Occupation Certificate.

- (b) that pending the hearing and final disposal of this Petition, Respondent Nos.1 to 3 be directed to forthwith act upon the representations made by the Petitioner, through its Advocates’ letters and not sanction any plans pertaining to Wing A.*
- (c) that pending the hearing and final disposal of this Petition, the Respondents be directed to allow the Petitioner to appoint an architect of its choice to enable it to complete the construction of “B” wing and apply for the Occupation Certificate.”*

2 Mr. Sakhare, the learned Senior Advocate for the MCGM has informed the Court that since the basement is common and the proposal submitted earlier for Wings ‘A’ and ‘B’ was by a common Architect, it would be appropriate if the Architect who had earlier submitted the proposal for both the wings continues to submit the proposal and documents to the Corporation also on behalf of the Petitioner for Wing ‘B’, despite the Petitioner and Respondent No. 4 now being in independent charge of Wings ‘B’ and ‘A’ respectively. The learned Advocate appearing for Respondent No.4 states that he has no objection to the suggestion given by the learned Senior Advocate for the MCGM and that the Architect Mr. Dinesh Dholkiya will be instructed by Respondent No. 4 to send the proposal / documents in respect of Wing “B” managed by the Petitioner. The learned Advocate appearing for the Petitioner agrees to get the documents signed and submitted to the Municipal Corporation through Mr. Dinesh Dholkiya. The statements are accepted. Needless to add that all costs,

expenses and compliance pertaining to Wing “B” will be borne / complied with by the Petitioner and with reference to Wing ‘A’ by Respondent No.4. The Writ Petition is disposed of accordingly.

3. In case of any difficulty, the parties are at liberty to apply.

(B. P. COLABAWALLA, J.)

(S. J. KATHAWALLA, J.)