

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11512 OF 2022**

Evergreen Enterprises ...Petitioners
Versus
The Additional Town Planning Officer & Anr ...Respondents

Mr Nitin Patil, for the Petitioner.
Mr GS Hegde, with PM Bhansali, for the Respondent-CIDCO.

**CORAM G.S. Patel &
Sharmila U. Deshmukh, JJ.**
DATED: 21st November 2022

PC:-

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1. Heard.

2. The Petitioners seek an Occupancy Certificate in respect of a building from CIDCO. The matter appears to be entirely covered by more than one order of a Division Bench of this Court. We reproduce the order of 27th September 2022 made by Mr SV Gangapurwala and RN Laddha JJ in Writ Petition No. 8109 of 2022:

- “1. The petitioner seeks occupancy certificate.
2. We have heard learned Counsel for the petitioner and respondents.
3. Reference is made to the order dated January 20, 2019 in Writ Petition (St.) No. 251 of 2020 passed by the

coordinate Bench of this Court in similar matter.

4. In light of that, we adopt the same course and pass the similar order.

5. The respondent Nos.1 and 2 shall consider the application of the petitioner for grant of occupancy certificate in respect of construction of Plot No.88, Sector No.9, Ulwe, (12.5% scheme), Navi Mumbai on its own merit. The said decision shall be taken preferably within two months from today.

6. In case the Occupancy Certificate is granted in favour of the petitioner by CIDCO, then the same shall be subject to final outcome of PIL No. 154 of 2016 and PIL No. 121 and 122 of 2019. It is further made clear that the petitioner herein or any other person claiming through the petitioner shall not be entitled to claim any equity in the event the orders in PIL No.154 of 2016 and/or PIL No. 121 and 122 of 2019 are adverse to the interest of the petitioner herein or the person claiming through the petitioner.

7. We have passed the order in view of the fact that the coordinate Bench has already taken the similar view and decided the matter.

8. The writ petition is disposed of. No costs.”

3. It is not possible to adopt any other course. We are required to follow the same course as the previous Benches and make a similar order.

4. Accordingly, Respondents Nos. 1 and 2 are to consider the application of the Petitioners for an Occupancy Certificate in respect of the construction at Plot No. 174, Sector 17, Ulwe, District

Raigad, Navi Mumbai on merits. That decision should be taken within two months from today.

5. If the Occupancy Certificate is granted in favour of the Petitioner by CIDCO, this will be subject to the final outcome of PIL No. 121 of 2019 and PIL No. 122 of 2019.

6. Neither the Petitioners nor any other person claiming through or under the Petitioners will be entitled to claim any equities if any of these PILs mentioned above receive orders that are adverse to the interest of the Petitioners (or any persons claiming under or through the Petitioners).

7. We have passed this order keeping in mind that at least two previous Benches have passed similar orders.

8. The Writ Petition is disposed in these terms with no order as to costs.

(Sharmila U. Deshmukh, J)

(G. S. Patel, J)