

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 15173 OF 2022

City Buildcon And Anr.

...Petitioners

Versus

The City And Industrial Development Corporation
Of Maharashtra Ltd. And Ors.

...Respondents

Shri R.D. Soni a/w.V.C. Kasle i/b. Ram & Co., for Petitioners.

Shri G.S. Hegde a/w.Ms.P.M. Bhansali, for Respondent Nos.1 to 3-CIDCO.

Ms.R.M. Shinde, AGP for State-Respondent No.4.

CORAM : R.D. DHANUKA &
M.M. SATHAYE, JJ.

DATED : 22nd DECEMBER, 2022

PC. :

1. Rule. Shri.Hegde, waives service for Respondent Nos.1 to 3-CIDCO. Ms.R.M. Shinde, AGP for State-Respondent No.4. Rule is made returnable forthwith.

2. By this petition filed under Article 226 of the Constitution of India, the Petitioners seek a writ of Certiorari for quashing and setting aside letter dated 14.09.2022 and seek a writ of Mandamus to process the application for Occupancy Certificate dated 02.06.2022 in respect of property described in writ petition.

3. It is not in dispute that the application for Occupancy Certificate is rejected on the ground that Public Interest Litigation relating to the subject matter still pending before this Court.

4. We are perused the judgment delivered by this Court on 29.01.2020 in Writ Petition (St.) No.251 of 2020 in case of **Pankaj Shankarlal Bhanushali & Ors. Vs. The Municipal Commissioner, Municipal Corporation of City of Panvel & Ors.** and also order dated 21.10.2022 passed by Division Bench of the this Court in Writ Petition No.11359 of 2022 in case of **Reddy's Infrastructure Pvt. Ltd. & Anr. Vs. The City and Industrial Development Corporation of Maharashtra Limited & Ors.** directing the authority to grant Occupancy Certificate in respect of the subject property on its own merits within a period of two months from the date of order subject to the final out come of PIL No.154 of 2016 and PIL Nos.121 and 122 of 2019.

5. We adopt the same course and pass the following order:

a) CIDCO shall consider the application of the Petitioners for grant of Occupancy Certificate in respect of property described in prayer Clause (a) of the petition within two months from today.

b) In case, the Occupancy Certificate is granted in favour of the Petitioners by the CIDCO, the same shall be subject to final out come of PIL No.154 of 2016 and PIL Nos.121 and 122 of 2019.

c) It is made clear that the Petitioners or any other persons claiming through petitioner shall not entitled to claim any equity in the event the order or proceedings are adverse to the interest of the Petitioner may be a person claiming through the Petitioners.

d) We have passed this order in view of the fact that our co-ordinate bench has also already taken the similar views and decided the matter more particularly in Writ Petition (St.) No.251 of 2020.

e) The writ petitions are made absolute in the aforesaid terms. Rule is made accordingly. No order as to costs.

Parties to act on the authenticated copy of this.

(M.M. SATHAYE, J.)

(R.D.DHANUKA, J.)