

APPEAL FROM ORDER NO.1051 OF 2019
with
INTERIM APPLICATION NO.2398 OF 2019

M/s. D. Dahyabhai And Company
Private Limited,
thr. Its Dir. Shri. Nitesh Kothari ...Appellant
Versus
Shri. Rajdaksha Sharma And Ors. ...Respondents

**APPEAL FROM ORDER (ST) NO. 25430 OF 2022
with
INTERIM APPLICATION (ST) NO.25432 OF 2022
with
INTERIM APPLICATION (ST) NO.25431 OF 2022**

Rajdakasha Sharma And Ors. ...Appellants
Versus
D. Dahyabhai And
Co. Private Limited & Anr. ...Respondents

....
Mr.Vishal Kanade i/b. Jayesh M. Joshi, for the Appellant in AO/1051/2019.
Mr.Mandar Limaye, for Respondent Nos.1 to 3/Corporation in both AO.
Mr.Ravi Kadam, Senior Counsel a/w. Dr.Abhinav Chandrachud, Nikhil Waje, Vishesh Srivastav, Yogesh Adhia, Masing Shaikh, Anushree Koparkar i/b. I.C. Legal, for the Respondent Nos.1 to 3 in AO/1051/2019 & for Appellants in AO (st.)/25430/2022.

DATED : 25th NOVEMBER, 2022

P.C.:

1. Interim Application (St.) No.25432 of 2022 filed by the Applicants/Appellants for condonation of delay of 279 days in filing the Appeal from Order is condoned for the reasons stated in the application. Interim Application is disposed of.

2. After having heard Mr.Kanade, learned counsel appearing for the Appellant and Mr.Ravi Kadam, Senior Counsel appearing for the Respondents/Plaintiffs so also Mr.Limaye, learned counsel appearing for the Respondent-Corporation, by consent order impugned dated 10th October, 2019 passed by 2nd Joint, Civil Judge, Senior Division, Thane is modified as under:

“The Defendant No.2-Municipal Corporation, Thane is directed to allot the TDR/DRC in favour of the Respondent-land owner out of which the Appellant/Defendant-land owner is restrained from dealing with 50% of such TDR/DRC till the decision of the suit. In case, if the Appellant/Defendant deals with 50% TDR/DRC which has come to his share, he shall in writing intimate about such final deal to the other parties i.e. the Plaintiff and Corporation within a period

of 15 days of such deal”.

3. As regards, the dispute about the balance of 50% TDR is concerned, the parties hereto agree to refer a dispute to that extent to a Mediator. Accordingly by consent of the parties, Former Judge of this Court Mr.R.M. Savant is appointed as a Mediator before whom the parties hereto agreed to appear on **5th December, 2022**. We requested the Mediator to submit a report of Mediation on or before **13th January, 2023** before the Trial Court.

4. In view of above, the Appeals against Orders stand disposed of.

5. Pending applications, if any, no more survive stand disposed of.

(NITIN W. SAMBRE, J.)