

**BASAVRAJ
GURAPPA
PATIL**

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

INTERIM APPLICATION NO.1884 OF 2021

IN

WRIT PETITION (L) NO.4962 OF 2020

Rakesh Saigal Applicant

Juhu Parul Premises CHS Ltd. Petitioner

Vs.

Mumbai Municipal Corporation & Ors. Respondents

Mr. Vedchetan Patil a/w. Shraddha Achliya i/b. Mr. Ashraf Patel for the Applicant / Respondent No.3.

Mr. Mukesh M. Vashi, Senior Advocate a/w. Ms. Prachi Khandge i/b M/s. M. P. Vashi & Associates for the Petitioners

Mr. A. L. Patki, Additional GP for Respondent Nos.4 to 6 - State.

**CORAM: A.A.SAYED &
ABHAY AHUJA, JJ.**

**DATED : FEBRUARY 2, 2022
(VIDEO CONFERENCING)**

P.C.

1 Learned Senior Counsel for the Petitioner Society and Learned Counsel for the Applicant / Respondent No.3 state that the Interim Application has been worked out. They have produced signed Minutes of Order dated 31st January 2022.

2 By consent of the Learned Senior Counsel for the Petitioner Society and the learned Counsel for the Applicant / Respondent No.3, we pass the following order:

(i) Without prejudice to the rights and contentions of the Petitioner and the Respondents, the Respondent No.3 will put up partition walls in shop No. to 5 as per the sanctioned building plan, which are the subject matter of the present Writ Petition. The Respondent No.3 will also carry out such work as required to be carried out as per the sanctioned building plan pertaining to the shop No.1 to 5.

(ii) The above mentioned work will be carried out by the Respondent No.3 at his own cost. We appoint M/s. Shetgiri & Associates, Structural Engineer, under whose advice and satisfaction the work will be carried out. The fees of M/s.Shetgiri & Associates shall be borne by the Applicant / Respondent No.3. M/s.Shetgiri & Associates shall issue a Certificate of completion of work which shall be filed in this Court with copies to all parties.

(iii) The Respondent No.3 will be entitled to either use the said 5 shops himself or give it on lease and license basis / conducting basis to any third party. However, the Respondent No.3 and/or any 3rd party claiming under the 3rd Respondent will be entitled to use the open spaces in front of the 5 shops. However, the 3rd Respondent or any person claiming through the 3rd Respondent will not encroach upon the open spaces. The Respondent will also not claim any benefit at the time of redevelopment of the society property in respect of the open spaces.

(iv) In case the Respondent No.3 is required to take permission of Respondent No.1 - Corporation for carrying out the above mentioned work, the Respondent No.3 will obtain the said permission from Respondent No.1 at his own cost.

(v) The Petitioner will grant NOC, if so required, by the Respondent No.1 for grant of such permission.

(vi) Further, if any NOC is required by the Respondent No.1 for issuing any license to Applicant /

Respondent No.3 and/or for any permission required by the Licensee / incoming licensees to operate their business, then the Petitioner would issue the same within one week from the date of the application for any business other than that of a Restaurant, Alcohol and employing use of a kitchen.

(vii) The Petitioner society has passed a resolution approving the above consent minutes of order.

3 Interim Application to stand disposed of in the aforesaid terms.

(ABHAY AHUJA, J.)

(A.A.SAYED, J.)