

Ashwini

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1383 OF 2023**

Aaiji Group ...Petitioner
Versus
The Additional Town Planning Officer (CIDCO) ...Respondents
& Ors

**WITH
WRIT PETITION NO. 1384 OF 2023**

Kamdhenu Devkrupa Realtors LLP through ...Petitioner
Partner Karan Surinder Sabholk
Versus
The Additional Town Planning Officer & Ors ...Respondents

**WITH
WRIT PETITION NO. 1385 OF 2023**

Girraj Corporation & Anr ...Petitioners
Versus
The Additional Town Planning Officer (CIDCO) ...Respondents
& Ors

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**WITH
WRIT PETITION NO. 1386 OF 2023**

Meghna Infra Project ...Petitioner
Versus
The Additional Town Planning Officer & Ors ...Respondents

Mr Suresh Sabrad, *with Jeetenndra Sachhdev, Amey Sawant, Gracy Saldana & Abubakar Patel, i/b JS Legal, for the Petitioners in all Writ Petitions.*

Mr Siddharth Shitole, *i/b Ashutosh Kulkarni, for the Respondent-CIDCO.*

Mrs PN Diwan, AGP, *for the Respondent-State.*

**CORAM G.S. Patel &
 Dr Neela Gokhale, JJ.**

DATED: 6th February 2023

PC:-

1. In all these matters, the Petitioners seek an order against CIDCO to issue an Occupancy Certificate. We are told that these Occupancy Certificates have been delayed (not refused) because of the pendency of some PILs. Our attention is drawn to a previous order dated 8th December 2022. A copy of that order is at page 68 of Writ Petition No. 12452 of 2022. We reproduce that from pages 68 to 69.

“The Petitioner seeks occupancy certificate.”

2 We have heard learned Counsel for the Petitioner and Respondents.

3 Reference is made to the order dated 20th January, 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 and grant of occupancy

certificate in respect of construction of Plot No.100, Sector No.18, Ulwe Node (12.5% scheme), Navi Mumbai on its own merit. The said decision shall be taken preferably within two months from today.

6 In case of 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 decide the matter.

8 Writ Petition is disposed of. No costs.”

2. There is a similar order of 2nd January 2023 at page 70 which reads thus:

“Rule. Shri.Hegde, waives service for Respondent Nos.1 and 2-CIDCO. Ms.K.N. Solunke, AGP for State-Respondent No.3. Rule is made returnable forthwith.

2 By this Petition filed under Article 226 of the Constitution of India, the Petitioner seeks a writ of Mandamus directing the Respondent Nos. 1 and 2 to grant Occupancy Certificate for the building situate at Plot No. 97, admeasuring 1949.64 sq. meters at Section 18 Pt., Ulwe Node Tal. Panvel, Dist. Raigad.

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

pending before this Court.

4 We have 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 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 outcome 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 Petitioner for grant of Occupancy Certificate on its own merits, 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 Petitioner by the CIDCO, the same shall be subject to final outcome of PIL No.154 of 2016 and PIL Nos.121 and 122 of 2019.
- c) It is made clear that the Petitioner or any other persons claiming through petitioner shall not be entitled to claim any equity in the event the order or proceedings are adverse to the interest of the Petitioner or a person claiming through the Petitioner.
- d) We have passed this order in view of the fact

that our co-ordinate bench has also already taken similar view and decided the matter more particularly in Writ Petition (St.) No.251 of 2020.

e) Rule is made absolute in the aforesaid terms. Writ Petition is disposed of. No order as to costs.

Parties to act on the authenticated copy of this order.”

3. In all four Petitions, we adopt the same course. We issue Rule. Rule is made returnable forthwith. Rule is made absolute to the following terms:

- (a) CIDCO shall consider the application of the Petitioners for an Occupancy Certificate on merits in respect of the properties described in the respective Petitions within sixty days from today.
- (b) If the Occupancy Certificate is granted to the Petitioner by CIDCO, this will be subject to the final outcome of PIL No. 154 of 2016, PIL No. 121 of 2019 and PIL No. 122 of 2019.
- (c) The grant of an Occupancy Certificate will not entitle the Petitioners to claim any equities if the order in the PILs is adverse to the interest of the Petitioners.

4. This order is passed since coordinate Benches of our Court have taken an identical view.

5. The Writ Petitions are disposed of in these terms.

6. There will be no order as to costs.

(Dr Neela Gokhale, J)

(G. S. Patel, J)