

Shivgan

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7565 OF 2022

Shelter Builders & Developers	...Petitioners
<i>Versus</i>	
The City & Industrial Development Corporation of Maharashtra Ltd & Ors	...Respondents

Mr Vishal Kanade, *with Vishal Maheshwari & Kamini Pansare i/b*
VM Legal, for the Petitioners.
Mr VM Mali, AGP, *for the State.*
Mr Siddharth Shitole, *i/b Ashutosh Kulkarni, for the*
Respondent/CIDCO.

CORAM: G.S. Patel &
Neela Gokhale, JJ.
DATED: 6th April 2023

PC:-

1. **Rule.** Returnable forthwith. Respondents waive service.

2. An Occupancy Certificate (“OC”) is refused because there is a Public Interest Litigation pending. Previously, the Court had granted conditional protective orders. One such order is of 29th January 2020. A similar order, more recently passed, is of 22nd December 2022. This is in Writ Petition No. 15781 of 2022. Paragraph 3 sets out that the reason for the refusal of the OC is the

same. Previous Benches have directed the authorities to grant the OC on merits within two months subject to the final outcome of PIL Nos. 154 of 2016, 121 of 2019 and 122 of 2019.

3. We pass the same order in this Petition.

4. CIDCO is to consider the application of the Petitioners for an OC in respect of the property that is the subject matter of the Writ Petition within two months from today. *The Commencement Certificate dated 28th January 2016 at Exhibit E to the Petition is the one that will be taken into account for this purpose.*

5. If the OC is granted in favour of the Petitioners, it will be subject to the final outcome of these PILs. Neither the Petitioners nor any persons claiming through them will claim any equities if the orders in PILs are adverse to the interests of the Petitioners or any person(s) claiming through the Petitioners. This order is necessary because Benches of co-ordinate strength have taken similar views.

6. The Writ Petition is disposed of in these terms with no order as to costs. Rule is made absolute in these terms.

(Neela Gokhale, J)

(G. S. Patel, J)

Note: This order is modified by an order dated 24th April 2023 passed on a praecipe. Corrections are shown in bold and italics.

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