

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 15677 OF 2022

Maghnani Developers through
its partner

..Petitioner

V/s.

The Additional Town Planning
Officer and Ors.

..Respondents

Mr. Suresh Sabrad a/w Abubakar Patel i/b JS legal for the
Petitioner.

Mr. G.S. Hegde a/w P.M. Bhansali for the Respondent Nos. 1 and
2.

Ms. K.N. Solunke, AGP for Respondent No.3/State.

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

DATE : 2nd JANUARY 2023

P.C.

. 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.

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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 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 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

out come 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.

M.M.SATHAYE, J.

R.D.DHANUKA, J.