

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

**INTERIM APPLICATION NO.1229 OF 2023
IN
PUBLIC INTEREST LITIGATION NO.7 OF 2009**

M/s. Goldmine Advertising Ltd. & Ors.	... Applicants
<u>In the matter between :-</u>	
Abhay Bhatwadekar	... Petitioner
V/s.	
State of Maharashtra & Ors.	... Respondents

Ms. Sneha Prabhu i/by Kinnari Mehta for the Applicants.
Mr. Surel Shah, Amicus Curiae is present.
Mr. Milind More, Addl. GP for the Respondent-State.
Mr. Girish Utangale a/w Ms. Sanika Kurundwadkar i/by M/s.
Utangale & Company for Respondent No.2-SRA.
Ms. Niharika Singh i/by Lime & Company for original Respondent
No.18.
Mr. Atmaram Patade a/w Mr. Suraj Naik, Mr. Pranav Manjrekar
and Ms. Shalaka Shinde for Respondent Nos.33, 39 and 40.
Ms. Huda Diamondwala i/by Diamondwala & Company for
Respondent No.47.

**CORAM : DEVENDRA KUMAR UPADHYAYA, CJ. &
ARIF S. DOCTOR, J.**

DATE : 30th AUGUST 2023

P.C. :

By the present Interim Application, the Applicants
seek the following reliefs :-

- "(a) This Hon'ble Court be pleased to grant permission to the Applicant to sell/create third party rights with respect to Unit Nos.105, 106, 306 and 404/2 of the Summit Business Bay;*
- (b) This Hon'ble Court be pleased to vacate the ad-interim order dated 24th October 2016 passed by this Hon'ble Court;*
- (c) Pending hearing and final disposal of the Interim Application, an order be passed to expedite the Public Interest Litigation;*
- (d) Interim/Ad interim reliefs in terms of prayer clause (b) and (c) above may be granted;*
- (e) That the costs of the Interim Application be provided for;*
- (f) The delay in taking out this application, if any, be kindly condoned;*
- (g) This Hon'ble Court be pleased to grant any other relief as the nature and circumstances of the case may require;"*

2. Ms. Sneha Prabhu appearing on behalf of the Applicants submitted that the present Interim Application was necessitated on account of the fact that by an order dated 24th October 2016 this Court had *inter alia* directed as follows :-

"Rule has already been issued We therefore direct that the petition shall be listed on the appropriate final hearing cause list as per turn. We also make it clear that pendency of the Petition, no further third party Interests shall be created in respect of the premises forming part of the sale component"

3. Ms. Sneha Prabhu at the outset submits that she is not pressing prayer clause (b) of the Interim Application, however she is confining her prayers to only prayer clause (a). She further clarifies that the Applicants do not wish to, at this stage, sell the said premises in question, but only seek to give the same on a leave and licence basis. She points out from the averments made in the Interim Application that the Applicants are *bona fide* purchases for valuable consideration, who however cannot put to effective use of the said premises for the purposes for which they were bought. She therefore submits that the Applicants are desirous of giving the same on a leave and licence basis, so as to generate some income for the Applicants.

4. At this stage, the learned Amicus Curiae submits that he has no opposition to this, however the person/entity to whom such premises are given on a leave and licence basis must give an Undertaking to be bound by the final orders, which may be passed in the present Public Interest Litigation and to vacate the said premises as and when called upon to do so.

5. Given this, we pass the following order :-
- (i) The Interim Application is allowed in terms of prayer clause (a).
 - (ii) We clarify that the Agreement that has to be entered into will be a leave and licence agreement.
 - (iii) The proposed licensee will be impleaded as a party Respondent to the Public Interest Litigation.
 - (iv) The proposed licensee shall give an Undertaking to this Court to be bound by all such orders as may be passed in the Public Interest Litigation. On such Undertaking to be given, the leave and licence agreement to be executed.
6. With this, the Interim Application is accordingly disposed of.

(ARIF S. DOCTOR, J.)

(CHIEF JUSTICE)