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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

INTERIM APPLICATION NO. 10155 OF 2022

AND

INTERIM APPLICATION NO. 10110 OF 2022

IN

PUBLIC INTEREST LITIGATION NO. 131 OF 2008

WITH

PUBLIC INTEREST LITIGATION NO. 131 OF 2008

1. Classique Associates

2. HGP Community Pvt. Ltd.

Both having Registered Office at

514, Dalamal Tower, Nariman

Point, Mumbai 400 021

... Applicants

In the matter between

1. Kamlakar Motiram Satve

Age about 49, occupation: service

and social worker, residing at Sita

Sadan, Opp. I.I.T Main Gate,

Tirandaz /village, Powai,

Mumbai-400 076

2. Sou Usha Kamlakar Satve

Age about 44, occupation:

household work and social work,

residing at Sita Sadan, Opp. I.I.T

Main Gate, Tirandaz /village,

Powai, Mumbai-400 076

... Petitioners

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RAJESHWARI
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Vs.

1. The State of Maharashtra
2. Department of Revenue & Urban
Development, Government of
Maharashtra, Mantralaya,
Mumbai-400 032
3. Mumbai Metropolitan Regional
Development Authority
Having office at Bandra Kurla
Complex, Bandra (East),
Mumbai-400 051
4. Brihanmumbai Municipal
Corporation through its
Commissioner having his office at
Mahapalika Bhavan, Opposite
C.S.T., Fort, Mumbai-400 001
5. Chittaranjan Chandrabhan
Sharma age about 80, occupation:
Builder having his office at C-104,
Prashant Apartment, Opp IIT
Main Gate, Powai,
Mumbai 400 076
6. Narottam Chittaranjan Sharma
age about 80, occupation: Builder
having his office at C-104,
Prashant Apartment, Opp IIT
Main Gate, Powai,
Mumbai 400 076

7. Bhavanishankar (Lallu)
Harishchandra Sharma
Age about 60, Occupation :
Builder, residing at Sharma
Cottage, Behind Lake Cassel,
Hiranandani Complex, IIT Powai,
Mumbai-400 076 having his office
at Bhavani Industrial Services
Estate, Powai, Mumbai-400 076
- 8 Prashant Gopal Sharma
Builder & Developer, 3rd Floor,
G.H.P. Corporation,
MilleniumTower, Near Petrol
Pump, Powai, Mumbai-400 076
- 9 M/s. Hiranandani Developers Pvt.
Ltd. Having its office at 'Olympia'
Hiranandani Complex, Powai,
Mumbai-400 076
- 10 Niranjan Hiranandani
Age about 55, Occupation: Builder
Managing Director of M/s.
Hiranandani Developers Pvt. Ltd-
the Respondent no. 9 having his
office at at 'Olympia' Hiranandani
Complex, Powai,
Mumbai-400 076

... Respondents

WITH
ORDINARY ORIGINAL CIVIL JURISDICTION
PUBLIC INTEREST LITIGATION NO. 91 OF 2008
WITH
NOTICE OF MOTION NO. 437 OF 2011
AND
NOTICE OF MOTION NO. 441 OF 2011
IN
PUBLIC INTEREST LITIGATION NO. 91 OF 2008

Mr. Rajendra Thacker

Res. At Flat No. D1, Dwarkesh Park Co-
operative Housing Society, Sai Baba
Nagar, Borivali (West)

Mumbai-400 092

... Petitioner

Vs.

1. The State of Maharashtra
Principal Secretary , Dept. of
Urban Development Dept,
Secretary Revenue and Forest
Department, Mantralaya
Mumbai-400 032
2. Mumbai Metropolitan Regional
Development Authority
Having office at Bandra Kurla
Complex, Bandra (East),
Mumbai-400 051
3. Slum Redevelopment Authority
Regd Add : 5th floor, MHADA Bldg
Kalanagar, Bandra (E),
Mumbai-400 051

4. Municipal Corporation of Greater
Mumbai, Regd Add : Mahapalika
Bhavan CST, Mumbai-400 001
5. Maharashtra Chamber of Housing
Industry, Regd. Add : Maker
Bhavan II 4th floor, 18/V
Thackersey Marry, New Marine
Lines, Opp. Income Tax Office,
Mumbai
6. M/s. Hiranandani Construction
Regd. Add: 'Olympia' Central
Avenue, Hiranandani Gardens,
Powai, Mumbai-400 076
- 6A Niranjan Hiranandani
- 6B Hiranandani Group of Companies
- 6C Lake View Developers
All having address at : 'Olympia'
Central Avenue, Hiranandani
Gardens, Powai.

... Respondents

**WITH
ORDINARY ORIGINAL CIVIL JURISDICTION
PUBLIC INTEREST LITIGATION NO. 21 OF 2010
WITH
NOTICE OF MOTION NO. 442 OF 2021
IN
PUBLIC INTEREST LITIGATION NO. 21 OF 2010**

Medha Patkar

National Alliance for Peoples Movement
29-30 Haji Habib Building, Naigaon Cross
Road, Dadar (East), Mumbai-400 014

... Petitioner

Vs.

1. The State of Maharashtra
Through the Secretary, Urban
Development Department,
Mantralaya, Mumbai
2. The Secretary
Housing and Special Assistance
Department, Mantralaya,
Mumbai
3. Competent Authority
Urban Land (Ceiling and
Regulation) Act, 1976, New
Administrative Building,
Government Colony, Bandra
(East), Mumbai-400 051
4. The Commissioner
Municipal Corporation of Greater
Mumbai, Mahapalika Marg
Mumbai – 400 001
5. The Metropolitan Commissioner
Mumbai Metropolitan Region
Development Authority
Having office at Bandra Kurla
Complex, Bandra (East),
Mumbai-400 051
6. Shri Niranjana Hiranandani
Hiranandani Gardens, Powai
Mumbai

... Respondents

**WITH
CIVIL APPLICATION NO. 37 OF 2017
IN
PUBLIC INTEREST LITIGATION NO. 131 OF 2008**

M/s.Crescendo Associates and Ors.	...Applicants
<u>In the matter between</u>	
Kamlakar Motiram Satve and Anr.	... Petitioners
vs.	
The State of Maharashtra and Ors.	... Respondents

**WITH
CIVIL APPLICATION NO. 10 OF 2010
WITH
CIVIL APPLICATION NO. 152 OF 2011
IN
PUBLIC INTEREST LITIGATION NO. 131 OF 2008**

Kamlakar Motiram Satve and Anr.	...Applicants
<u>In the matter between</u>	
Kamlakar Motiram Satve and Anr.	... Petitioners
vs.	
The State of Maharashtra and Ors.	... Respondents

**WITH
CIVIL APPLICATION NO. 153 OF 2011
IN
PUBLIC INTEREST LITIGATION NO. 131 OF 2008**

Niranjan Hiranandani and Ors.	...Applicants
<u>In the matter between</u>	
Kamlakar Motiram Satve and Anr.	... Petitioners
vs.	
The State of Maharashtra and Ors.	... Respondents

**WITH
CIVIL APPLICATION NO. 36 OF 2017
IN
PUBLIC INTEREST LITIGATION NO. 131 OF 2008**

M/s. Lake View Developers and Ors. ...Applicants

In the matter between

Kamlakar Motiram Satve and Anr. ... Petitioners

vs.

The State of Maharashtra and Ors. ... Respondents

Dr. Milind Sathe, Senior Advocate a/w. Mr. Chetan Kapadia,
Ms. Vidisha Rohira, Mr. Parag Kabadi and Ms. Falguni Thakkar
i/b. DSK Legal for the Applicant.

Mr. P. P. Kakade, GP a/w. Mr. M.M. Pabale, AGP for the State.

Mr. Akshay Shinde for MMRDA.

Mr. Mihir Joshi for the Petitioner in PIL/21/2010.

Mr. Latika Kabad i/b. Mr. Rohit Joshi for Respondent nos. 5
and 6 in PIL/131/2008 and IA/10135/2022.

Mr. Akshay Shinde 'B' Panel Counsel a/w. Mr. P.P. Kakade, GP
and Ms. Nisha Mehra, AGP for the State.

Mr. Ramdas Shelke i/b. Mr. S.G.Deshmukh for the Petitioner in
PIL/131/2008.

Mr. Kedar Dighe, AGP for the State of Maharashtra.

**CORAM : S.V. GANGAPURWALA, ACJ. &
SANDEEP V. MARNE, J.**

DATED : 11 JANUARY, 2023

JUDGMENT (Per Sandeep V. Marne, J) :-

1. These three Public Interest Litigations involve the issue of development of vast lands at Powai in Mumbai known as “Powai Area Development Scheme” (for short **PADS**). The constructions put up by the developer on these lands under PADS have been challenged in these three Public Interest Litigations praying *inter alia* for institution of inquiry in respect of Tripartite Agreement dated 19 November 1986 executed between State of Maharashtra, Mumbai Metropolitan Region Development Authority (MMRDA) and the developers.

2. Extensive interim order dated 22 February 2012 came to be passed in the present Public Interest Litigations holding that there was breach and non-compliance of the Tripartite Agreement by the developers. This court therefore proceeded to pass the following directions:

(a) The petitioners and the developer as also the Metropolitan Commissioner of the MMRDA shall prepare a statement of all the buildings and structures put up by the developer in the Powai ADS alongside their names and description and the numbers and area of the units/flats therein within 4 weeks from today.

(b) The petitioners, the developer and the Metropolitan Commissioner of the MMRDA shall prepare a plan showing the vacant areas of the plot under the Powai ADS, where further buildings may be constructed, within 4 weeks from today.

(c) If the parties are unable to work jointly they would be entitled to work individually in terms of (a) and (b) above.

(d) The developer shall not put up any further construction of whatsoever nature on the remainder of the plot under the Powai ADS before specifying the vacant lands and the buildings that can be constructed thereupon as per the statement and plan mentioned in clauses (a) and (b) above and shown to Court.

(e) The developer shall be entitled to commence any further construction only after obtaining the specific permission of this Court in that behalf and subject to the sanctioned plans of the MMC.

(f) Such construction shall be only of 1511 flats of 40 sq.mtrs 1593 flats of 80 sq.mtrs without any amalgamation, exception, or further allowance.

(g) No two flats shall be sold to the same person or any member of her/his family, being her/his spouse and children.

(h) The developer shall sell to the State Government from such construction such of the flats or units as would represent 15% of the total FSI of the total plot consumed under the development @ Rs.135/- per sq.ft. And the State Government shall offer those flats to be purchased by the employees of the State Government at the aforesaid rate in a transparent manner.

(i) After constructing and showing the Court the total number of units or flats constructed for residential purpose as initially required under the Powai ADS and after offering to sell the flats as directed in clause (h) above, the developer shall submit a report of such construction and sale to Court with a copy to the Petitioners in all the above Petitions, the MMRDA, the State Government and the MMC.

(j) The Developer shall thereafter be entitled to put any further construction as per law.

(k) The compensation for the breaches of the tripartite agreement claimed by the MMRDA shall be determined in the appropriate forum.

(l) The petitioners may file any private criminal complaint for any offence committed by the developer or any of the public officers of MMRDA or the State Government in the appropriate Court.

(m) All the writ petitions shall stand over to 29th March 2012 for placing on record the statement and plan as directed in clauses (a) and (b).

3. Thus under the interim order dated 22 February 2012, this court directed the developers/applicants to complete construction of 1511 flats of 40 sq.mtrs, 1593 flats of 80 sq.mtrs and to sell to the State Government such of the flats or units as would represent 15% of the total FSI of the total plot consumed under the development.

4. Further interim order came to be passed by this court on 3 October 2017 clarifying that the number of flats to be constructed by the developer would be 1511 flats of 40 sq.mtrs and 887 flats of 80 sq.mtrs. A timeline came to be set by this court for completion of construction of such 1511 flats of 40 sq.mtrs and 887 flats of 80 sq.mtrs. In paragraph 22 of the order, this court directed that in the event of the developers/applicants failing to comply with any of the terms and conditions laid down in the order, they would construct

additional 10% of the remaining flats to be constructed which remained incomplete as on 1 June 2021.

5. The Interim Application no. 10155 of 2022 has been filed by the developers/applicants seeking condonation of delay with the following prayers:

(a) that this Hon'ble Court be pleased to condone the delay by extending time for completing the construction of 'A' & 'B' wings and 'C' wing of Atlantis building comprising of 448 number of flats of 80 sq. mtrs to March 2018 and February 2019 respectively.

(b) that this Hon'ble Court be pleased to extend the timelines for completing the construction of:

i. 'C' & 'D' Wings of Building Castle Rock till 30th June, 2021 and 'A' & 'B' Wings of Building Castle Rock till 30th January 2022 (instead of December, 2020);

ii. the Building Regent Hill, Wings A & B, C, D & E till 30th January, 2023 (instead of 31st May 2021);

iii. the Building Sorrento till 15th June, 2023 (instead of December, 2020);

(c) for interim and ad-interim relief in terms of prayers (a) and (b) above;

(d) for such other and consequential reliefs as this Hon'ble Court may deem fit; and

6. When the Interim Application no. 10155 of 2022 came up before this court on 9 April 2021, this court passed following order :

I In so far as prayer (a) is concerned, the same stands deferred for consideration at a later stage.

II We allow the prayer clauses (b)(i) and (b)(ii).

III In so far as prayer (b)(iii) is concerned, the applicants shall file a better affidavit explaining the reasons for the delay in commencement of construction.

IV All other conditions imposed by the earlier orders of this Court shall remain intact.

V The Interim Application shall be listed once again on 9th June 2021.

7. Thus prayer clause (b)(i) and (b)(ii) of the Interim Application were allowed and while prayer clause (a) was deferred for consideration at a later stage, the developers /applicants were granted liberty to file better affidavit with regard to prayer clause (b)(iii). Accordingly, the developers/applicants have filed affidavit dated 7 June 2021 setting forth the reasons for delay in construction of flats in the building 'Sorrento' covered by prayer clause (b)(iii). Further affidavit dated 19 January 2022, 21 March 2022 and 22 June 2022 have been filed by the developers/applicants putting on

record progress made by them with regard to construction of flats from time to time.

8. In the affidavit dated 22 March 2002, the developers/applicants have put on record that the entire construction is now complete and the obligation imposed by the interim order dated 22 February 2022 read with the order dated 3 October 2017 have been met with. It is stated that the developers have completed construction of 1511 flats of 80 sq.mtrs and 1593 units of 40 sq. mtrs and have further handed over 128 flats of 40 sq. mtrs and 128 flats of 80 sq.mtrs to the State Government on 7 May 2022.

9. After consideration of the above affidavits, this court constituted a three member committee to verify completion of construction of 1109 flats of 40 sq.mtrs and 276 flats of 80 sq. mtrs by its order dated 19 October 2022. The committee appointed by this court submitted its report dated 1 November 2022 confirming completion of construction of 1109 flats of 40 sq. mtrs and 276 flats of 80 sq.mtrs.

10. Thus as of now the updated status of construction of the flats by the developers is as follows:-

Buildings	Completion/OC estimated date as per the Affidavit dated 24.9.2017 filed in this Hon'ble Court	No. of flats		O.C. Received	Extension Prayed for	Prayer Clause	Present Status
		40 sq.mtrs	80 sq.mtrs				
Atlantis-A & B Wings	December 2017		294	28.03.2018		(a)	
Atlantis-C Wing	June 2018		154	13.02.2019		(a)	
Hill Grange	July 2018	172	172	19.06.2018			
Maple	September 2018	231		24.07.2018			
Castle Rock- C & D Wings	December 2020		224	26.11.2020			
Castle Rock- A & B Wing	December 2020		284		30.01.2022	(b)(i)	Full OC for A Wing and Part OC for B Wing till 21 st floor received on 14.9.2021
Regent Hill- A,B,C,D & E Wings	May 2021 (as per the Order dated 3.10.2017)	1021			30.01.2023	(b)(ii)	OC for Wings A and B received on 9.3.2022; OC for Wings C, D and E received on 22.4.2022
Sorrento	December 2020	88			15.06.2023	(b)(iii)	OC received on 13.6.2022
TOTAL		1512	1128				

11. Thus, as against direction of this court in interim orders dated 22 February 2012 and 3 October 2017 for construction of 887 flats of 80 sq.mtrs, the developer/applicants have constructed 1150 flats of 80 sq. mtrs. However there appears to be delay in construction of some of the flats. It is evident from the above chart showing updated status of construction. So far as 'A' and 'B' wings of 'Atlantis' building is concerned, 294 flats of 80 sq.mtrs which were required to be constructed by December 2017 are constructed by 28 March 2018. In 'C' wing of 'Atlantis' building 154 flats of 80 sq. mtrs which were supposed to be complete by June 2018 are constructed by 13

February 2019. These flats are covered in prayer clause (a) of the Interim Application no. 10155 of 2022 which was deferred by this court by its order dated 9 April 2021. So far as 88 flats of 40 sq. mtrs in building 'Sorrento' are concerned, the same were required to be completed by December 2020. However, the same appears to have been constructed by 13 June 2022. These flats are covered by prayer clause (b)(iii) of the Interim Application for which developers/applicants were granted liberty to file better affidavit by order dated 9 April 2021.

12. We have heard Dr. Sathe, the learned Senior Advocate assisted by Mr. Chetan Kapadia for the developers/applicants. Mr. Sathe would take us through the affidavits explaining the reasons for delay in construction of some of the flats. He would submit that the delay caused in construction of some of the flats in the building 'Sorrento' was essentially on account of the requirement of obtaining environmental clearances, which was beyond the control of the developers. That the entire obligation of construction of requisite number of flats and handing over of requisite area to the State Government being met by the Developers, they should now be permitted to proceed further with the development of PADS by lifting all fetters imposed by

this court in its various interim orders. He would further submit that the *bonafides* of the developers are clear from the fact that they have developed additional flats of 80 sq. mtrs than the one required under the interim orders of this Court. Dr. Sathe would further contend that as directed by this court in paragraph 53(g) of the interim order dated 22 February 2012 developers have scrupulously followed the conditions of not selling two flats to the same person or any member of her/his family, being her/his spouse and children.

13. Mr Joshi, the learned counsel appearing for the Petitioner in PIL/21/2010 would oppose the prayers in the Interim Application filed by the developers contending that the justification of delay in obtaining environment clearance for construction of the building 'Sorrento' is required to be rejected as the developers always had the knowledge about mandatory requirement of law for obtaining environmental clearance. He would submit that on account of inordinate delay in construction of 88 flats of 40 sq.mtrs in building 'Sorrento', the direction in paragraph 22 of the interim order dated 22 August 2017 for construction of additional 10% flats would automatically kick in. He would therefore urge before us to

direct further construction of 10% additional flats of 80 sq. mtrs. by the developers.

14. We have also heard Mr. Kakade, the learned Government Pleader who draws our attention to the affidavit dated 19 September 2022 in which the State Government has also clarified that the developers/applicants have complied with all the obligations. We would refer to the relevant paragraphs of the affidavit dated 19 September 2022 in which it is averred in paragraph 6 to 8 as under:

6. On 7th May, 2022, the Respondent No. 2, MMRDA has taken possession of 128 flats of 40 sq. mtrs and 128 flats of 80 sq.mtrs having area aggregating 17,173.70 sq.mtrs against 17,146.05 sq.mts in the Hill Grange Building. Hereto annexed and marked **Exhibit "A" and "A-1"** is copy of the said Possession Receipt dated 7th May, 2022 along with the English translation.

7. Thus, the Applicant has complied with the obligation of handing over 17,146.05 sq.mtrs to State Government as specified in paragraph 53(h) of the said Judgment dated 22nd February, 2012 read with the paragraph (3) of the Order dated 3rd October, 2017.

8. Thus, the Applicants have complied with the paragraph no. 53 (f) of the said Judgment dated 22nd February, 2012 read with paragraph no. 16 of the Order dated 3rd October, 2017 in respect of construction of 40 sq.mtrs and 80 sq.mtrs flats.

15. We have also heard Mr. Shinde, the learned counsel for MMRDA who also does not dispute fulfillment of obligations under the interim orders of this Court by the developers/applicants.

16. Having heard the learned counsels for rival parties and after perusal of previous orders passed by this court and various affidavits filed by the parties, the undisputed position that emerges is that the developers/applicants have fulfilled the entire obligations cast upon them by this Court by its interim orders. However they have defaulted in respect of timeline with regard to construction of some of the flats as detailed above. This court has already granted prayer clauses b(i) and b(ii) of the Interim Application No. 10155 of 2022 and has thereby extended the timeline in respect of some the flats in buildings 'Castle Rock' and 'Regent Hill' to 30 January 2022 (instead of December, 2020) and 30 January 2023 (instead of 31 May 2021) respectively. What remains now is to extend the timeline/ condone the delay in construction of some of the flats in buildings 'Atlantis' and 'Sorrento'.

17. In the affidavit dated 7 June 2021, the developers/applicants have provided justification for delay in

construction of flats in building 'Sorrento' covered by prayer clause (b)(iii). We have gone through the affidavit dated 7 June 2021. It appears that the developers/applicants had obtained Environment Clearance on 10 April 2014 in respect of other buildings such as Atlantis, Mapple and Hill Grange and since 'Sorrento' was newly proposed after the year 2014, the earlier Environment Clearance of 2014 did not apparently cover it. Therefore a common application for environment clearance was made to the Central Government on 3 August 2017 for proposed expansion of residential buildings (including Sorrento) and on account of non-convening of meeting of Expert Appraisal Committee, the application remained pending. Due to change in the policy of grant of EC by the State Environment Assessment Committee, developers/applicants were required to re-apply for EC on 17 May 2018 at the State Government level.

18. The State Expert Appraisal Committee (SEAC II) in its 77th meeting held on 16 November 2018 considered developers'/applicants' application but decided to defer the same seeking certain clarifications. The clarifications were provided by the developers on 6 December 2018. Thereafter in

various meetings of SEAC II the proposal was deferred for various reasons, details of which are stated in the affidavit. Ultimately SEAC recommended the proposal to State Environment Impact Assessment Authority (SEIAA) for approval on 24 February 2019. SEIAA granted environment clearance to the developers/applicants on 29 May 2019 subject to conditions. This is how final environment clearance came to be granted in respect of various buildings including Sorrento on 14 June 2019. The affidavit dated 7 June 2021 also states the reason of delay in issuance of NOC for tree cutting resulted in delay in issuance of Commencement Certificate from 31 August 2018 to 6 March 2019. Another reason cited is subdivision of plot-layout as per condition 10 of the IOD which consumed time between 20 November 2018 to 5 July 2019. Last impediment cited is about the ambiguity regarding applicability of Development Control & Promotion Regulations, 2034 and its effect requiring amendment of layout and plans.

19. For the above quoted reasons delay, in completion of 88 flats of 40 sq.mtrs in building Sorrento is sought to be justified. It must however be noted here that in prayer clause (b)(iii), the developers/applicants sought extension of time upto 15

June 2023 for completion of those flats, whereas they were able to complete construction of the building 'Sorrento' on 13 June 2022 itself, i.e. before the extension sought.

20. Having gone through the reasons set forth in the affidavit dated 7 June 2021 with regard to delay in construction of 88 flats of 40 sq.mtrs in building 'Sorrento', we record our satisfaction about the justification given therein. Therefore we are of the view that prayer clause b(iii) sought for in the Interim Application No. 10155 of 2022 deserves to be granted.

21. In additional affidavits filed on 19 January 2022, 22 March 2022 and 22 June 2022, the developers/applicants have put on record as to how the construction progressed and how ultimately the entire obligations of construction of both categories of flats were finally completed by them.

22. So far as prayer clause(a) of the Interim Application No. 10155 of 2022 is concerned, the delay in construction of 294 flats of 80 sq.mtrs in 'A' and 'B' wing of building 'Atlantis' is only of three months. They were to be constructed by December 2017, but have been constructed by 28 March 2018. So far as 154 flats of 80 sq.mtrs in 'C' wing of building 'Atlantis'

is concerned, again the delay is about seven and a half months. They were to be constructed by June 2018 and are actually constructed by 13 February 2019. Since the delay in construction of flats covered by prayer clause (a) of the Interim Application is not significant, we propose to condone the same. It must be observed here that under the interim orders of this court, the developers/applicants were under obligation to construct only 887 flats of 80 sq.mtrs whereas they have constructed 1150 flats of 80 sq.mtrs i.e more than the obligation casted by this court. This is yet another factor to be borne in mind while considering the prayer of the developers/applicants for condonation of delay in respect of flats covered by prayer clause (a) of the Interim Application.

23. As observed above, this court has already granted prayer clause (b)(i) and b(ii) of the Interim Application. As observed above we are inclined to grant prayer clauses (a) and (b)(iii) of the Interim Application No. 10155 of 2022.

24. Interim Application No. 10110 of 2022 has been filed seeking direction to transfer the amount of Rs. 112.35 cores (approx.) presently lying in the joint account held in the names of Applicants (Classique Associates and HGP Community Pvt.

Ltd.) and the Prothonotary and Senior Master of this court into the bank account maintainable by the applicants in accordance with the provision of the Real Estate (Regulation and Development) Act, 2016 in respect of building 'Regent Hill' to be utilised for the purpose of construction of the building. Prayer is also made to deposit the considerations received by the developers/applicants from sale of the balance flats into their bank accounts. Now that interim orders of this court are already satisfied by the developer/applicants, the sale proceeds deposited as per interim order dated 3 October 2017 lying in the above joint accounts can be permitted to be withdrawn by the applicants (Classique Associates and HGP Community Pvt. Ltd.). Thus the Interim Application No. 10110 of 2022 can also be disposed of permitting withdrawal of such amounts.

25. While hearing the Interim Application nos. 10155 of 2022 and 10110 of 2022, it is noticed that the main Public Interest Litigations have not yet been disposed of. By the initial extensive interim order though this court issued various directions in the main PILs, the same were adjourned to 19 March 2012 seeking compliance. Thereafter various interim orders appear to have been passed in the PILs. However all the

three PIL Nos. 131 of 2008, 91 of 2008 and 21 of 2010 continue to remain pending. The aspect of violation of Tripartite Agreement on the part of the developers, which is the main issue in all there PILs, has already been dealt with in the interim order dated 22 February 2012 and corrective measures were directed to be undertaken. Thus the main issue involved in the PILs has already been decided by the interim order dated 22 February 2012. With complete compliance of all obligations put on the developers/applicants for construction of flats and handing over tenements to the State Government, we observe that no purpose would be served in keeping the PILs pending any further. Therefore while disposing of the Interim Application No. 10155 of 2022 and 10110 of 2022, we propose to dispose of the main PILs as well. Accordingly, we proceed to pass the following order :

ORDER

- (i) Interim Application No. 10155 of 2022 is allowed in terms of prayer clause (a) and (b)(iii) as well.
- (ii) Delay in construction of some of the flats as per the directives of this court in the interim order dated 22 February 2012 and 3 October 2017 shall stand condoned.

(iii) It is recorded that the developers/applicants have completed construction of 1511 flats of 40 sq.mtrs and 887 flats of 80 sq.mtrs as envisaged in the interim orders dated 22 February 2012 and 3 October 2017.

(iv) It is further recorded that the flats having aggregate area of 17146.05 sq.mtrs have been handed over by the developers/applicants to MMRDA which has issued possession receipt dated 7 May 2022.

(v) In view of compliance of all the obligations imposed on the developers/applicants by interim order dated 22 February 2012 and 3 October 2017, all restraints imposed in paragraph 53 of the order dated 22 February 2012 are vacated and the developer/applicants shall be at liberty to proceed with development of PADs land without any embargo/restrictions including regarding size of tenements or joint use of the tenements, amalgamation or construction of tenements for commercial use.

(vi) The amounts of sale proceeds deposited as per order dated 3 October 2017 lying in the joint accounts held jointly by applicants (Classique Associates and HGP Community Pvt. Ltd.) and Prothonotary and Senior Master of this court along

with interest accrued thereof are permitted to be withdrawn by the joint applicants and the Prothonotary and Senior Master is directed to take steps to close the joint accounts. As a result, Interim Application No. 10110 of 2022 seeking withdrawal of the amounts stands disposed of.

(vii) The one-man committee headed by Justice S. Radhakrishnan (Retired) appointed by this court by order dated 3 October 2017 shall stand discharged.

(viii) It is made clear that all other directions given in the interim order dated 22 February 2012 and 3 October 2017, except as modified by the present judgment, shall continue to operate.

(ix) Public Interest Litigation Nos. 131 of 2008, 91 of 2008 and 21 of 2010 stands disposed of.

(x) In view of the disposal of the Public Interest Litigations all Interim Applications, Civil Applications and Notices of Motion stand disposed of.

(xi) There shall be no orders as to costs.