

Ganesh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4117 OF 2024

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Shubh Shwet Developers

...Petitioner

Versus

Vasai Virar City Municipal Corporation & Ors

...Respondents

WITH

WRIT PETITION NO. 3716 OF 2024

Cosmos Prime Projects Ltd

...Petitioner

Versus

The State of Maharashtra & Ors

...Respondents

Ms Anita F Pandey, *for the Petitioner in WP/4117/2024.*

Ms Sneha Prabhu, *i/b Kinnari Mehta, for the Petitioner in
WP/3716/2024.*

Ms Swati Sagvekar, *for Respondent No 1 in WP/4117/2024 & for
Respondent No 2 in WP/3716/2024.*

Mrs MP Thakur, AGP, *for Respondent No 1-State in WP/4117/2024
& for Respondent No 2 in WP/3716/2024.*

CORAM **G.S. Patel &
Kamal Khata, JJ.**
DATED: **15th April 2024**

PC:-

WRIT PETITION NO. 4117 OF 2024

1. Rule, returnable forthwith.

2. On the basis of the previous order that we have made, Rule absolute in terms of prayer clauses (a) and (b), which read thus:

“a. That this Hon’ble Court be pleased to issue Writ of Mandamus or Writ, order, or direction in the nature of Mandamus directing Respondent No. 1 to consider the Application for Occupancy Certificated dated 18th January, 2024.

b. That this Hon’ble Court be pleased to issue a Writ of Certiorari or a writ in the nature of Certiorari or any other appropriate writ, order, or directions, leading to impugned refusal letter dated 16th February, 2024 being issued by Respondent No. 1 to be quashed and set aside as being illegal, unconstitutional, not tenable in law and capricious.”

3. This is because construction began during the validity period of the various development permissions. The civil work of the building was completed on 10th August 2021 and then the Petitioner applied for an Occupation Certificate (“OC”). This was rejected on the basis that the environment clearance had lapsed. But the fact is that the construction was completed while the environment clearance was still very much valid.

4. These facts are not contemptuous and are a part of the record. For these reasons, Rule to be made absolute as indicated above.

WRIT PETITION NO. 3716 OF 2024

5. It is *prima facie* unclear to us whether or not the Petitioner has a functioning Sewage Treatment Plant (“**STP**”) as required. The Municipal Authority and the Maharashtra Pollution Control Board will independently or jointly at their convenience inspect the site. We make it clear that this is not a question of merely having a STP in place. The STP must be there, and it must be demonstrated to be functioned and functioning within stipulated norms. That inspection is to be carried out with an accompanying report at the earliest possible and preferably by 10th May 2024.

6. Since the rest of the request is for an OC, we do not permit the Petitioners to disturb the vacation judges and list the matter on 12th June 2024.

(Kamal Khata, J)

(G. S. Patel, J)