

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4372 OF 2015

Ajit J. Shah

..Petitioner

Versus

Shrirajrajeshwari Infrastructure
Pvt Ltd & Ors

..Respondents

WITH

INTERIM APPLICATION NO. 17761 OF 2023

IN

WRIT PETITION NO.4372 OF 2015

Mr.Ashutosh R. Rathod

..Applicant

IN THE MATTER BETWEEN

Ajit J. Shah

..Petitioner

Versus

Shrirajrajeshwari Infrastructure
Pvt Ltd & Ors

..Respondents

WITH

WRIT PETITION NO.5446 OF 2014

Prem Karda

..Petitioner

Versus

Shrirajrajeshwari Infrastructure
Pvt Ltd & Ors

..Respondents

WITH

INTERIM APPLICATION (ST)NO.25745 OF 2023

IN

WRIT PETITION NO.5446 OF 2014

Mr.Aashutosh R. Rathod

..Applicant

ANJALI
TUSHAR
ASWALE

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ANJALI TUSHAR
ASWALE
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IN THE MATTER BETWEEN

Prem Karda

..Petitioner

Versus

Shrirajraleshwari Infrastructure

Pvt Ltd & Ors

..Respondents

Mr.Anoshak Daver, with *Mr.Abhishek Matkar, Malhar Bageshwar i/b Sanjiv Sawant, Advocates for the Petitioner in Wp.5446/2014.*

Mr. Jitendra Oak, *Advocates for the Petitioner in WP.4372/15.*

Mr.Dinesh Tiwari, *Advocates for Respondent Nos.1 and 2 in both the Writ Petitions.*

Mr.Ashutosh Rathod, *Applicant/Respondent No.3 appeared in-person in both the Writ Petitions and Interim Applications.*

Mr.Nainesh N. Amin i/b N. N. Amin & Co/Respondent No.4 in both Writ Petitions.

**CORAM : B. P. COLABAWALLA &
SOMASEKHAR SUNDARESAN, JJ.
DATE : JANUARY 16, 2024**

P.C.

Both the above Writ Petitions challenge the order dated 5th May, 2014 passed by the DRAT. Initially, the S. A. filed by the Appellants before the DRAT (Respondent Nos.1 to 3 herein) was dismissed by the DRT. Being aggrieved by the said order of the DRT, Respondent Nos.1 to 3 herein preferred Appeal No.148 of 2010 before the DRAT who gave a finding that the 13 (2) notice and all subsequent actions pursuant thereto are set aside as they

are *void ab initio*. Rule was issued in both the above Writ Petitions on 13th October, 2015. We have taken up both the Writ Petitions for final hearing today.

2 We have, with the assistance of parties, gone through the impugned order. After the Writ Petition was argued for some time, all parties before us agreed that the impugned order can be set aside by consent and the matter be remanded back for a fresh hearing. In these circumstances, the order dated 5th May, 2014 is hereby set aside and Appeal No.148 of 2010 is restored back to the file of the DRAT to be disposed of afresh. All parties have further agreed that they may be permitted to file additional compilation of documents before the DRAT. We, therefore, permit any of the parties to file an additional documents before the DRAT, if they are so advised, within a period of two weeks from today. Considering that the above Appeal is of the year 2010, we would request the DRAT to hear the above Appeal as expeditiously as possible and preferably within a period of eight weeks from today. It is directed that all parties shall co-operate with the DRAT for expeditious disposal of the above Appeal and shall not ask for any adjournments except in exceptional and extraordinary circumstances.

3 In the interregnum, and till the disposal of the above Appeal by the DRAT, the parties have agreed that they shall maintain status-quo with reference to the properties which form the subject matter of both the above Writ Petitions.

4 Rule is made absolute in the aforesaid terms and both the above Writ Petitions are disposed of in terms thereof. However, there shall be no order as to costs.

5 In light of the disposal of the above Writ Petitions, nothing survives in the above Interim Applications and the same are disposed of accordingly.

6 This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[SOMASEKHAR SUNDARESAN, J.] [B. P. COLABAWALLA, J.]