

Sumedh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7592 OF 2023

Smita Sandeep Dhaddha & Ors

...Petitioners

Versus

City & Industrial Development Corporation Ltd
through Vice Chairman & Managing Director &
Ors

...Respondents

Ms Sneha Prabhu, i/b Kinnari Mehta, for the Petitioners.

Mr Sameer Patil, for Respondents Nos 1 to 3-CIDCO.

**Mr Mayur Khandeparkar, with Arun Panikar & Rajeev Sharma, i/b
Juris Salvation, for Respondent No 4.**

Mr Ajay Khaire, for Respondents Nos 8 & 9-AAI.

**Mr Shubhabrata Chatraborti, with Naozad Golwala, i/b Mahernosh
Humranwala, for Respondent No 10.**

Mr JP Jagtap, with Umesh Iyer, for Respondent No 11-MPCP.

Mr AA Alaspurkar, AGP, for the Respondent-State.

**CORAM G.S. Patel &
 Kamal Khata, JJ.**

DATED: 17th January 2024

PC:-

1. In our view this Petition is a complete abuse of the process of this Court. The three Petitioners have premises in what is known as Bhagwati Greens III Phase 3. They seem to have formed an Association of Persons ("AOP") Petitioner No 4. The developer is

Bhagwati Developers, Respondent No 4. The City and Industrial Development Corporation of Maharashtra (“**CIDCO**”) is the planning authority. It is Respondent No 1.

2. The Petition seeks several reliefs and in our view they have either worked themselves out or cannot be granted.

3. It is true that Bhagwati Developers has applied for (but not yet obtained) an Occupation Certificate (“**OC**”). While that application is pending, with the consent of the necessary 66.66% of allottees, it has sought an amendment of the plans to construct additional spaces. This is being opposed by the Petitioners and they seek to oppose this by accelerating the OC process and application in respect of the occupancies as they presently stand. Obviously, this will defeat any consent and any proposal for amended plans and further construction.

4. These Petitioners attempted to oppose this further construction in proceedings before the Real Estate Regulatory Authority (“**RERA**”). According to the Petitioners, there was an order of RERA that there would be no further amendments until a particular date and until the Developer filed an Affidavit. That Affidavit was filed. The order has come to an end. It is not shown to have been extended. These submissions that the order continued indefinitely are not appreciated. Thus, not having succeeded before RERA, the attempt is now to work through the public authorities by compelling the grant of an OC as it stands, (i.e., for 110 units without further construction) so that Bhagwati Developers cannot

construct any further and so that any consents that have been given by any other allottees are rendered useless.

5. The submission in paragraph 35D is contrary to settled law. But what is worse is that in paragraph 35C, added by amendment, the allegation is that other members of Petitioner No 4, AOP were “coerced” to sign consent. Any such assertion in a Writ Petition must necessarily result in the rejection of the Writ Petition.

6. The Petition is rejected.

(Kamal Khata, J)

(G. S. Patel, J)