

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO.7529 OF 2024
IN
FIRST APPEAL NO.1430 OF 2019

M/s. Mira Real Estate Developers .. Applicant

In the matter between:-

Union of India through
The Deputy Salt Commissioner .. Appellant

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Versus

The Estate Investment Company
Private Limited & Ors. .. Respondents

Mr.Aspi Chinoy, Senior Advocate a/w Girish Godbole, Senior Advocate, Rujuta Patil, Yohaana Shah, Hasan mushabber i/b Negandhi Shah & Himayatullah, Advocates for the Applicant.

Mr.Ashish Mehta a/w Ameya Mahadik, Advocates for Appellant.

CORAM :B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.
DATE : JULY 25, 2024

P. C.

1. The above Interim Application is filed seeking a prayer that the order dated 2nd September 2021 passed by this Court in Interim Application (st) No.97107 of 2020, Civil Application No.384 of 2019 and Writ Petition (st) No.11164 of 2021 and First Appeal No.1430 of 2019 be

modified and the Applicant, in relation to the suit land, be permitted to enter into a leave and license agreement with Larsen & Toubro Limited and Apco Infratech Pvt Ltd for use as a casting yard, on such terms and conditions as may be finalized and agreed with Larsen & Toubro Limited and Apco Infratech Pvt Ltd.

2. Under what circumstances the above First Appeal is filed is set out by this Court [in brief] in its order dated 12th February 2024. This order was passed in Interim Application No.1041 of 2024 filed by the same Applicant, seeking permission of this Court to permit them to give the suit land on a leave and license basis to the MCGM for using it as a casting yard for the Coastal Road Project and the Dahisar-Bhayander Link Project. This Application was allowed, and this Court directed that the Applicant is permitted to participate in the E-tender floated by MCGM in this regard, and in the event the Applicant is declared as a successful bidder, the Applicant will be at liberty to execute a leave and license agreement with the MCGM. It was further clarified that the order dated 12th February 2024 was passed without prejudice to the rights/claims of both sides in respect of the suit land.

3. It appears that in the tender held by the MCGM, the Applicant herein was the successful bidder, and a letter of acceptance has also been issued by the MCGM in that regard which is found at pages 436 and 440 of the Interim Application. However, nothing has been done by the MCGM thereafter.

4. In the meanwhile, the Contractors of MCGM who are undertaking the work of the Coastal Road Project [namely, Larsen & Toubro Limited] and the Dahisar-Bhayader Link Project [namely, Apco Infratech Pvt Ltd], have approached the Applicant for taking on leave and license a portion of the suit land for the purposes of using it as a casting yard for the Coastal Road Project and the Dahisar-Bhayander Link Road Project.

5. Mr. Chinoy, the learned senior counsel appearing on behalf of the Applicant, submitted that in light of the order passed by this Court on 12th February 2024, there cannot be any opposition to the aforesaid relief, considering that now instead of the MCGM, the leave and license agreement would be entered into with the Contractors of the MCGM, namely Larsen & Toubro Limited and Apco Infratech Pvt Ltd.

6. The learned advocate appearing on behalf of the Original Appellant-Union of India through the Deputy Salt Commissioner, submitted that the Additional Solicitor General is appearing in the above matter and requested that the matter be kept on 31st July 2024. The learned advocate has further submitted that the order dated 12th February 2024 has been challenged before the Hon'ble Supreme Court and was listed on board today and has now been posted on 30th July 2024.

7. We have noted in our earlier orders that several accommodations have been given, not only to the Attorney General of India but also to the Additional Solicitor General to appear in the above matter. Purely out of deference to the posts they hold, we place this matter now on 31st July 2024 and make it clear that the matter will proceed irrespective of whether the Additional Solicitor General or the Attorney General appears in the above matter or otherwise.

8. Since we find that the MCGM has floated a tender for taking the suit land [or part thereof] on a leave and license basis for the purposes of using it as a casting yard, and the Applicant herein is the successful bidder in that regard, we would like the MCGM to appear in the above matter with instructions informing us as to whether they are

going ahead with the aforesaid tender and taking a portion of the suit land on a leave and license basis from the Applicant, or whether they have any objection to the suit land (or any part thereof) being given on a leave and license basis directly to Larsen & Toubro Limited and Apco Infratech Pvt Ltd.

9. We expect that the MCGM will come with these instructions on the next date, namely on 31st July 2024. A copy of this order shall be served on the MCGM immediately by the advocates for the Applicant.

10. Stand over to 31st July 2024 at 2.30 p.m.

11. 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.

[FIRDOSH P. POONIWALLA, J.]

[B. P. COLABAWALLA, J.]