Ashwini

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 9910 OF 2024**

**IN**

**WRIT PETITION NO. 7782 OF 2024**

Friends Advertising ...Applicant

***In the matter between***

Friends Advertising …Petitioner

*Versus*

State of Maharashtra & Anr …Respondents

**WITH**

**INTERIM APPLICATION NO. 9911 OF 2024**

**IN**

**WRIT PETITION NO. 7856 OF 2024**

Welcome Outdoor ...Applicant

***In the matter between***

Welcome Outdoor …Petitioner

*Versus*

State of Maharashtra & Anr …Respondents

ASHWINI H GAJAKOSH
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**WITH**

**INTERIM APPLICATION NO. 9912 OF 2024**

**IN**

**WRIT PETITION NO. 7795 OF 2024**

Shrishti Communications ...Applicant

***In the matter between***

Shrishti Communications …Petitioner

*Versus*

State of Maharashtra & Anr …Respondents

**WITH**

**INTERIM APPLICATION NO. 9913 OF 2024**

**IN**

**WRIT PETITION NO. 7857 OF 2024**

HS Advertiser ...Applicant

***In the matter between***

HS Advertiser …Petitioner

*Versus*

State of Maharashtra & Anr …Respondents

**WITH**

**INTERIM APPLICATION NO. 9914 OF 2024**

**IN**

**WRIT PETITION NO. 7855 OF 2024**

Real Advertising Media ...Applicant

***In the matter between***

Real Advertising Media …Petitioner

*Versus*

State of Maharashtra & Anr …Respondents

**WITH**

**INTERIM APPLICATION NO. 9915 OF 2024**

**IN**

**WRIT PETITION NO. 7791 OF 2024**

Outdoor Mantra Pvt Ltd & Anr ...Applicants

***In the matter between***

Outdoor Mantra Pvt Ltd & Anr …Petitioner

*Versus*

State of Maharashtra & Anr …Respondents

**WITH**

**INTERIM APPLICATION NO. 9916 OF 2024**

**IN**

**WRIT PETITION NO. 7739 OF 2024**

Harmesh Dilip Tanna ...Applicant

***In the matter between***

Harmesh Dilip Tanna …Petitioner

*Versus*

State of Maharashtra & Anr …Respondents

**WITH**

**INTERIM APPLICATION NO. 9917 OF 2024**

**IN**

**WRIT PETITION NO. 7738 OF 2024**

Devangi Outdoor Advertising ...Applicant

***In the matter between***

Devangi Outdoor Advertising …Petitioner

*Versus*

State of Maharashtra & Anr …Respondents

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**Dr Uday Warunjikar***, i/b Sumit Kate, for the Applicant in all IAs.*
**Mrs Rupali Shinde, AGP***, for the Respondent-State.*
**Mr Chetan Kapadia, Senior Advocate***, with Rahul Sinha, Soham Bhalerao i/b DSK Legal, for the Respondent-CIDCO in IA/9910/2024, IA/9912/2024, IA/9913/2024, IA/9914/2024, IA/9915/2024.*

**Mr GS Hegde, Senior Advocate (Online)**, *i/b PM Bhansale, for the Respondent-CIDCO in IA/9911/2024, IA/9916/2024, IA/9917/2024.*

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**CORAM M.S. Sonak &**
**Kamal Khata, JJ.**
**DATED: 28th June 2024**

**PC:-**

**1.** Heard learned Counsel for the parties.

**2.** Mr Warunjikar submits that this is an application seeking an extension of time to file an Affidavit of compliance.

**3.** But to us, this is an application seeking an extension of time to comply with the solemn undertaking given to this Court that the unauthorized hoardings put up by the Applicants would be removed by them within four weeks of making of order dated 30th May 2024 that has expired on 27th June 2024.

**4.** Mr Warunjikar submits that there is a shortage of cranes and therefore, there was no compliance. He requests for an additional ninety days to report compliance.

**5.** Mr. Kapadia learned Counsel for the Respondent CIDCO submits that these hoardings were put up in breach of law and without obtaining any permissions from any authorities except the Panchayat which was not even the competent authority to permit erection of such hoardings. He points out that this Court's order dated 30th May 2024 is self-operative and therefore, the liberty granted to CIDCO to act following law should not be halted.

**6.** We have considered the rival contentions and perused the material on record and our order dated 30th May 2024. We are satisfied that no case is made out for the grant of any extension on the ground alleged or even otherwise.

**7.** Paragraphs 6 and 11 of the order dated 30th May 2024 read as follows:

> "6. Upon taking instructions, the Learned Counsels for the Petitioners submit that if they are given four weeks' time, they would, on their own, bring down the non-compliant hoardings and apply to CIDCO under Regulation 30 of the aforesaid Regulations for compliant erection of the hoardings.
>
> 11. Needless to say, if the hoardings remained non-complaint beyond the period committed in the undertaking given to the Court today, CIDCO shall be at liberty to take action in accordance with law."

**8.** Though four weeks have expired, the Applicants, are nowhere close to compliance. Instead, this application seeks a further 90 days to comply.

**9.** The reason now cited does not appeal to us. In any case, we presume that CIDCO does not have any shortage of cranes or the wherewithal to take action by law for the removal of these unauthorized hoardings.

**10.** Mr Warunjikar pointed out to us that this Court has granted some additional time to the Applicants to apply to CIDCO for revision of its policy. Paragraph 7 according to him, suggests that the

Petitioners have been permitted to make representations to CIDCO for revision of its policy.

**11.** This leave has nothing to do with the removal of unauthorized hoardings erected by the Applicants. This leave, at the highest, might facilitate the erection of such hoardings in the future by the Applicants after following the due process of law.

**12.** The only limited relief was to direct the CIDCO to defer its action based on the Applicants undertaking that they would themselves bring down the non-compliant hoardings and after that, apply to CIDCO for fresh permission for the erection of compliant hoardings. After securing the postponement of the demolitions scheduled for the next day, the Applicants now wish to renege on their solemn commitment and do not want to demolish the unauthorized hoardings.

**13.** The request of ninety days is not at all bonafide. The original order records that an undertaking was given to remove the hoardings within four weeks. This having not been done, there is no question of seeking a further ninety days to comply. We think that this is nothing but a request for breaching the solemn undertaking given to this Court. For all these reasons, we dismiss these Interim Applications.

**14.** At this stage, Mr Warunjikar requests that the Applicants should be allowed to go for regularisation. His request coming as it is, at this stage, is completely misconceived. The structures are wholly unauthorized and are impermissible under the current policy. Therefore, the Applicants had themselves requested a revision of

the policy. In these circumstances, after the Applicants have given an undertaking to remove the hoardings, there is no question of entertaining such a request.

**15.** Mr Warunjikar now says that the statement recorded in paragraph 6 was not an undertaking but only a statement. As of now, we thought that a statement made by an Advocate on taking instructions from parties was more than an undertaking. The Applicants nowhere contend that the statement was without their instructions. The applicants have taken advantage of the statement. However, if this distinction is sought to be made, we are extremely sorry and we are constrained to reject this. In any case, the law is not that the statement made by an advocate based on instructions can be flouted by any party by claiming that such a statement does not amount to an undertaking. And this is after securing advantage of the statement and deferring the demolitions scheduled for the next day.

**16.** For all the above reasons, all Interim Applications are dismissed. Though this was a fit case for imposition of costs, we refrain from doing so only at the request of Mr Warunjikar. The order dated 30 May 2024 was indeed self-operative. The consequences should therefore follow.

**17.** All concerned must act on an authenticated copy of this order.

**(Kamal Khata, J)** **(M.S. Sonak, J)**