



Pradnya

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 11747 OF 2024
IN
WRIT PETITION NO. 12773 OF 2022

Hiranandani Properties Private Limited	...Applicant
<i>In the matter between</i>	
Hiranandani Properties Private Limited	...Petitioner
<i>Versus</i>	
State of Maharashtra and anr.	...Respondents

Mr Shardul Singh, a/w Ms Prerna Gandhi, for the
Applicant/Petitioner.

Mr R. S. Apte, Senior Advocate, i/b. Mr Mandar Limaye, for
Respondent No.2.

Ms Rupali Shinde, AGP, for Respondent No.1-State.

CORAM **M. S. Sonak &
Kamal Khata, JJ.**
DATED: **22nd August 2024**

PC:-

1. Heard learned counsel for the parties.
2. By this Interim Application, the Applicant/original Petitioner seeks a direction to the Thane Municipal Corporation ("TMC") (Respondent No.2) to issue an occupation certificate in respect of commercial building No.6

without insisting upon the payment of penalty/compounding fees for a sum of Rs.13,57,98,756/- in respect of building Nos.13 and 14.

3. On 24th February 2023, a coordinate Bench of this Court comprising A. S. Chandurkar and M. W. Chandwani, JJ. granted the interim relief to the Applicant/original Petitioner and restrained the TMC from recovering this amount by adopting coercive measures subject to the Applicant/original Petitioner depositing 25% of this principal amount with the TMC. Admittedly, this 25% of the principal amount has been deposited by the Applicant/original Petitioner.

4. The record shows that the TMC was reluctant to accept the deposit of 25% of the principal amount. Therefore, the Applicant took out Interim Application No.8797 of 2024 directing the TMC to receive this amount and, after that, consider the Applicant's application for an occupation certificate in respect of building No.6. By order dated 28th June 2024, TMC was directed to accept the deposit of 25% of the amount and to decide on the Applicant's application for occupation certificate for building No.6 following law and on its own merits expeditiously.

5. The TMC has not decided on this application by stating that there was no objection to the issue of an occupation certificate, but the Applicant/original Petitioner must still deposit Rs.13,57,98,756/—with interest as a precondition for the issue of such an occupation certificate.

6. Considering the interim order made on 24th February 2023 and the fact that an occupation certificate has already been issued for building Nos.13 and 14, pending the final disposal of the Petition, the TMC cannot again insist upon payment of this entire amount as a precondition for issue of occupation certificate for building No.6. The TMC's communication dated 23rd July 2024, in turns, states that the TMC otherwise, has no objection for the issue of such occupation certificate.

7. Therefore, we direct the TMC to issue an occupation certificate for building No.6 to the Applicant without prejudice to the TMC's rights and contentions in the main Petition about the payment of the entire amount of Rs.13,57,98,756/- along with further interest thereon. Accordingly, the issue of such occupation certificate shall be subject to the final orders in Writ Petition No.12773 of 2022. If, ultimately, it is held the Applicant is liable to pay this amount, then the Applicant will have to pay this entire amount with interest, failing which, the occupancy now issued would be liable to be revoked unless, of course, the amount is immediately paid by the Applicant.

8. The Applicant or the occupants will not be entitled to claim any equities since the occupancy is being issued subject to final orders in this Petition. The Applicant must make this position clear to their occupants.

9. This Interim Application is disposed of in the above terms without any order for costs.

10. All concerned can act on an authenticated copy of this order.

(Kamal Khata, J)

(M. S. Sonak, J)