

Sumedh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION NO. 403 OF 2024
IN
WRIT PETITION NO. 2615 OF 2017

Vinod Mohanlal Jain	...Applicant
<i>In the matter between</i>	
Vinod Mohanlal Jain	...Petitioner
<i>Versus</i>	
The State of Maharashtra & Ors	...Respondents

Dr Abhinav Chandrachud, *with Leena Shah i/b Shah And Furia Associates, for the Applicant/Org Petitioner.*
Mr J Reis, *Senior Advocate, with Pooja Yadav i/b Sunil Sonawane, for the Respondent-MCGM.*
Mr Sukanata Karmakar, *AGP, for the Respondent-State.*

CORAM G.S. Patel &
Kamal Khata, JJ.
DATED: 7th February 2024

PC:-

1. The Interim Application (“IA”) is by the Petitioner. The dispute in the Writ Petition related to the payment of developmental charges. The Petition was itself disposed of by an order and

judgment dated by 20th October 2022 by bench of which one of us (Kamal Khata, J) was a member with RD Dhanuka, J (as he then was). The prayer was for an order that the Petitioners were exempted from payment or recovery of development charges by the Municipal Corporation of Greater Mumbai (“MCGM”) under section 124F of the Maharashtra Regional and Town Planning Act, 1966 (“MRTP Act”).

2. The Petitioner was required to deposit an amount of Rs. 1,01,37,633/- and then an additional amount of Rs. 77,35,120/-. That was done. When the Petitions were disposed of, there seem to have been no directions for the release of the amounts to the MCGM or in regard to the interest that would have been earned on that deposit in Court. When the matter was carried to the Supreme Court (by this very Petitioner/Applicant), the resultant order of 2nd January 2024 (page 255) was to issue notice and tag the Petitioners’ Special Leave Petition with the companion matters but with a direction that in the meantime and without prejudice to the rival conventions the development charges without interest would be paid.

3. It is in this context that the Petitioners seeks the following reliefs:

“(a) This Hon’ble Court by its Order and Directions be pleased to release the sum of Rs.1,78,72,753/- (Rupees One Crore Seventy Eight Lacs Seventy Two Thousand Seven Hundred Fifty Three Only) [*i.e. sum of Rs.1,01,37,633/- being deposited on 15-11-2017 and Rs.77,35,120/- being deposited on 10-05-2018 in this Hon’ble Court*] in favour of

Respondent No. 2 towards payment of Development Charges:

(b) This Hon'ble Court by its Order and Directions be pleased to release the interest accrued on the said sum of Rs.1,01,37,633/- (Rupees One Crore One Lakh Thirty Seven Thousand Six Hundred Thirty Three only) and also the sum or Rs.77,35,120/- (Rupees Seventy Seven Lakhs Thirty Five Thousand One hundred and Twenty Only) in favour of the Applicant/Petitioner herein.

4. Obviously, the first prayer is in favour of the 2nd Respondent, the MCGM, for release of the amount of Rs. 1,78,72,753/- as development charges. There can be no objection and indeed there is no objection to that order. The other aspect is about the interest accrued on the two amounts of Rs. 1,01,37,633/- and Rs. 77,35,120/. Dr Chandrachud submits that the interest earned on these amounts may either be retained in Court and further invested so as to earn interest pending the outcome of the SLP or that the Petitioners may be permitted to withdraw the amount.

5. Having regard to the order of the Supreme Court directing payment of development charges without interest, we believe it would be appropriate to permit the Petitioners to withdraw the interest earned on the two amounts of Rs. 1,01,37,633/- and Rs. 77,35,120/-.

6. The Application is thus made absolute in terms of prayer clauses (a) and (b).

7. This is of course without prejudice to any other charges that that may be properly leviable or recoverable by the MCGM in accordance with law.

(Kamal Khata, J)

(G. S. Patel, J)