

Sumedh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 94 OF 2024
WITH
INTERIM APPLICATION (L) NO. 20994 OF 2024
IN
WRIT PETITION NO. 94 OF 2024

Anil Vishnu Anturkar

...Petitioner

Versus

Mumbai Municipal Corporation & Ors

...Respondents

Mr Shubham H Misar, *for the Petitioner/Applicant.*

Mr AY Sakhare, *Senior Advocate, with Meena Dhuri, for the Respondent-BMC.*

Ms Savita Ganoo, *with Jenish Jain, for Respondents Nos. 2 & 3-UoI.*

Mr Ashwin Pimple, *i/b SSB Legal & Advisory, for Respondent No. 7.*

Mr Abhijeet Deshmukh, *for Respondent No. 8 -AAI.*

Ms Shona Maitra, *with Aryaman Ghag, i/b Wadia Ghandy & Co, for Respondent No. 9.*

Mr Karl Tamboly, *i/b HG Khambete, for the Respondent-Developer.*

Mr Anandrao Pawar, *Sub-Engineer (Building Proposal), M/West Ward, present.*

CORAM **M.S. Sonak &
Kamal Khata, JJ.**

DATED: **19th July 2024**

PC:-

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1. Heard learned counsel for the parties.
2. At the outset, we are a little surprised that the Applicant is filing this Application for an extension of the provisional Occupancy Certificate instead of the society or the developer.
3. Nevertheless, considering the submissions made that the building in question may possibly not violate the height restriction if it is retained up to its 11 floors, we extend the provisional OC by three months from today.
4. In our order dated 5 January 2024, the provisional OC was continued for a period not exceeding six months from 5 January 2024, only to enable the developer and the society to take necessary steps to bring the entire structure within regulatory limits.
5. The builder and Mr Atul Shirodkar, the Secretary of the Society, have made submissions before us about their steps. However, we think that the developer and society should have done everything necessary to bring the entire structure within the regulatory limits, or if the entire structure cannot be brought within the regulatory limits, state so candidly and then seek for protection of the structure to the extent it falls within the regulatory limits. Instead, the approach of the developer and the society appears to be to seek an extension of the provisional OC by requiring the Applicant herein to apply for extension.

6. The developer and society cannot simply point out the alleged problems they are facing and, based on the same, seek, through this Applicant, an extension of the provisional OC, almost indefinitely.

7. Therefore, though we have granted an extension of provisional OC for the building up to the ground to the 11th floor only, we clarify that nothing in our order dated 5th January 2024 or this order prevents the BMC or any other statutory authorities from taking action following law insofar as the structures on the 12th floor and onwards of this building.

8. This Interim Application is disposed of in the above terms.

(Kamal Khata, J)

(M.S. Sonak, J)

Note: This order is corrected as per the speaking to the minutes of order dated 24th July 2024. Corrections are shown in bold, italics and underlined.