

Wadhwa

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 3091 OF 2024

Prathamesh Tower CHS Ltd through its Chairman/Secretary
Versus
MHADA through its CEO & Ors

...Petitioners

...Respondents

Mr Bhavesh Parmar, *with Vivekanand Akshali, Reshma Nair & Rajesh Sahani, i/b Devmai Shukla, for the Petitioner.*
Ms Manisha Jagtap, *for the Respondent-MHADA.*
Mr Sachin Mhatre, *with Udi Gupta, i/b Mhatre Law Associates, for the Respondent No.3-Developer.*

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

PC:-

1. Heard the learned counsel for the parties.

2. Mr Parmar, the learned counsel for the Petitioners, states that the only relief in this Petition is a direction to the Maharashtra Housing And Area Development Authority (“MHADA”) to expeditiously consider and dispose of the applications for the grant of a full Occupation Certificate (“OC”) to the redeveloped building.

3. Mr Parmar points out that the Petitioners are the flat purchasers. By representations dated 15th September 2023 and 3rd October 2023 have requested the MHADA to process and dispose of the application for full OC. He points out that earlier occupancy was applied for from the Brihanmumbai Municipal Corporation (“BMC”). However, the BMC informed the Petitioners that there is a change in the Planning Authority, and henceforth, it would be for the MHADA to issue the OC with respect to the buildings in which the Petitioners claim interest.

4. Mr Sachin Mhatre, the learned counsel appearing for Respondent No. 3 (Developer/Builder), submits that the developer/builder has also applied for OC to MHADA sometime on 14th January 2023. He submits that the builder/developer has complied with the requirements of obtaining fire safety clearance and other such formalities necessary for the issue of OC. On instructions, he states that if at all any further compliances are necessary, the builder/ developer will ensure that such compliances are in order so that the issue of full OC is not delayed for any reasons attributable to the developer/builder.

5. From the record, we find that the MHADA has not taken any decision on the issue of full OC since 2023. The MHADA is expected to attend to such applications and dispose of them within a reasonable period, no doubt, in accordance with law and upon ensuring due compliance with all rules and regulations. However, the MHADA cannot sit on such applications and refuse to decide the same within a reasonable period. As a result of this attitude on

the part of the public authorities, this Court is flooded with Petitions only seeking directions on the public authorities to at least consider and decide their applications and requests in accordance with the law. This is one such case.

6. Accordingly, we direct the MHADA to decide the Petitioner's representations and the builder/developer application for OC as expeditiously as possible and in any event within four weeks from today, i.e., on or before 26th July 2024. If the MHADA requires any clarifications or compliances, the MHADA is free to seek the same from the Petitioners/builders/developers. However, such clarifications must be sought immediately so that the builders/developers also have reasonable time to submit the same and to report compliances. All this exercise must be completed by 26th July 2024, and the final decision must be communicated to the parties on or before the said date. If all compliances are in place, then even the OC must be issued on or before 26th July 2024.

7. The Petition is disposed of according to the above directions. However, the MHADA must file its compliance report by 9 August 2024. There shall be no orders for costs.

8. List the matter on 16th August 2024 to consider the compliance report.

(Kamal Khata, J)

(M.S. Sonak, J)