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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1536 OF 2025

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Borivali New Rajesh Park CHS Ltd. ... Petitioner

V/s.

The Collector, Mumbai Suburban
District & Ors. ... Respondents

Mr. Girish Godbole, Senior Advocate with Mr. Sachindra B. Shetye, Mr. Prashant Rane, Mr. Akshay Pansare and Ms. Ankita Jain for the petitioner.

Ms. Aloka A. Nadkarni, AGP for respondent Nos.1 to 3 – State.

Mr. Anil Anturkar, Senior Advocate with Mr. Atharva Date, Mr. Sachin Mhatre, Mr. Abhishek Patil, Mr. Mutahhar Khan, Mr. Sujit Rao, Ms. Sharmili Mhatre and Mr. Yogesh Naidu for respondent No.4.

Ms. Triveni Jain i/by Mr. S.M. Jani for respondent No.5.

Mr. Anand Khairnar with Mr. Santosh Parad i/by Ms. Komal Punjabi for respondent Nos.6 & 7 – MCGM.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 6, 2025

P.C.:

1. Upon considering the submissions advanced by the learned Senior Advocate appearing on behalf of the petitioner-Society, who, acting upon the instructions of its Secretary, seeks leave to withdraw the present writ petition, this Court deems it appropriate

to accede to such request. The petitioner is accordingly permitted to withdraw the writ petition, with the liberty reserved to avail such statutory remedies as may be legally permissible to assail the impugned orders, which form the substratum of the prayers herein, before the Competent Authority under the governing enactment.

2. In consequence of the above, the writ petition stands disposed of as withdrawn, with the liberty sought hereby granted.

3. It is expressly clarified that this Court has refrained from adjudicating upon the merits of the controversies raised in the writ petition. All rights and contentions of the parties, whether factual or legal, shall remain open to be urged before the statutory forum(s) at the appropriate stage, uninfluenced by the withdrawal of the present proceedings.

4. At this juncture, however, it becomes imperative to address an ancillary yet significant issue brought to the fore through the material on record. The Property Card annexed as Exhibit-B to the petition bears a remark purporting to restrain the parties from entering into any transaction or dealing with the properties enumerated therein. Such a restriction, in the considered view of this Court, cannot be sustained in law. The authorities functioning under the Maharashtra Land Revenue Code, 1966, possess no inherent jurisdiction to unilaterally impose such encumbrances in the absence of:

(i) a specific judicial or quasi-judicial order emanating from a Court of competent authority; or

(ii) an adjudicative determination grounded in statutory provisions conferring such power.

5. The imposition of such a restraint, devoid of either a legislative mandate or a judicial imprimatur, transgresses the bounds of authority vested in the revenue authorities under the Code and undermines the settled principles governing the regulation of property rights.

6. For the foregoing reasons, the remark contained in Exhibit-B, which operates to restrict transactions or dealings concerning the subject properties, is hereby quashed and set aside as being ultra vires the powers of the concerned authorities.

(AMIT BORKAR, J.)