

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 3150 OF 2024

M/s. Shiv Krupa Enterprise and Anr.

... Petitioners

V/s.

State of Maharashtra, Environment and
Climate Change Department through
Office of Government Pleader and Ors.

... Respondents

Mr. Saket Mone with Ms. Anchita Nair and Mr. Devansh Shah i/b. Vidhii
Partners for the Petitioners

Ms. Jyoti Chavan, Addl.G.P. with Ms. Vrushali V. Kabare, AGP for Respondent
No.1 – State

Ms. Jaya Bagwe for Respondent Nos. 2 and 3

Ms. Oorja Dhond with Ms. Chaitalee Deochake i/b. Ms. Komal R. Punjabi for
Respondent No.4 - BMC

**CORAM : ALOK ARADHE, CJ. AND
BHARATI DANGRE, J.**

DATE : 06th MARCH 2025

P.C. :

1. In this Petition, the Petitioner, inter-alia, has assailed the validity of order dated 9th November 2023 passed by the State Level Environmental Impact Assessment Authority (**SEIAA**) and seeks a direction to it to process the proposal of the Petitioner dated 26th April 2023 and to grant an Environmental Clearance in respect of the project.

2. Facts giving rise to filing of this Writ Petition briefly stated that the Petitioner is a developer. The Supreme Court in the case of *Municipal Corporation of Greater Mumbai & Ors. vs. Kohinoor CTNL Infrastructure Company Private Limited & Anr.*¹ held that mandatory open spaces are required to be provided at ground level under Regulation 23 of Development Control Regulations for Greater Mumbai, 1991 (**DCR 1991**) which is a minimum requirement and the same cannot be reduced by providing recreational ground at podium level as suggested by Regulation 38(34)(iv) of **DCR, 1991**.

3. The Petitioner, in accordance with the Environmental Assessment dated 14th September 2006 published by the Ministry of Environment, Forest and Climate Change, Government of India (**MoEF & CC**) submitted an application for grant of Environmental Clearance for expansion and modification of an existing residential building. The State Level Expert Appraisal Committee (**SEAC**), however, in its meeting held on 21st June 2023, raised an objection that the Petitioner has not provided 100% of the recreational ground on earth in accordance with the decision of the Supreme Court in *Kohinoor* (supra) and therefore, deferred the proposal.

4. The Petitioner, thereupon, sent a communication to the **SEAC** in which it was pointed out that the proposal of the Petitioner was already

¹ (2014) 4 SCC 538

sanctioned and therefore, therefore the restriction laid down by the Supreme Court in ***Kohinoor*** (supra) do not apply to the case of the Petitioner. However, the SEIAA in its 270th Meeting held on 9th November 2023, decided to defer the proposal till SEIAA obtains a legal opinion or guidance from the **MoEF & CC** with regard to the applicability of the order dated 10th August 2023 passed by the Supreme Court. In the aforesaid factual background the Petitioner approached this Court.

5. The learned Counsel for the parties jointly submits that the controversy involved in this Petition squarely covered by the order dated 5th February 2025, passed by this Court in Writ Petition No. 2982 of 2024 (*Rajeha Universal (Pvt.) Ltd. and Anr. vs. State of Maharashtra and Ors.*)

6. In view of aforesaid submission, the Writ Petition is disposed of directing the **SEIAA** to take a decision on the application of the Petitioner for Environmental Clearance within a period of eight weeks from today and communicate the same to the Petitioner.

7. Accordingly, the Writ Petition is disposed of.

(BHARATI DANGRE, J.)

(CHIEF JUSTICE)

JYOTI
PRAKASH
PAWAR

Digitally signed
by JYOTI
PRAKASH
PAWAR
Date: 2025.03.07
10:46:56 +0530