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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 4120 OF 2024

Eden Castle CHS Ltd.

... Petitioner

Versus

M/s. Darshan Sagar Developers & Ors.

.... Respondents

Mr. Pritesh Burad a/w Mrs. Madhuri Gawre i/b Pritesh Burad Associates, for the petitioner.

Ms.Minal Chandnani a/w Mr. Rajesh Ranglani, for respondents no. 1 to 3.

Mr.Mandar Limaye, for respondent no.4.

Ms.Sneha Prabhu a/w Mr. Siddharth Chandrashekhar, for respondent no.5.

Ms. Priyanka B. Chavan, AGP for the respondent-State.

**CORAM : M. S. KARNIK &
S. M. MODAK, JJ.**

DATE : 28th APRIL, 2026

P.C. :

1. The matter was heard substantially on the last occasion. In view of the deliberation at Bar, the parties have filed the Minutes of Order dated 28th April 2026, on the instructions of the petitioner and respective respondents, duly signed by the learned advocate for the petitioner, learned advocate for respondents no. 1 to 3, advocate for respondent no.4 and advocate for respondent no.5.

The Minutes of Order is taken on record and marked 'X' for identification. Hence, the following order.

2. The petition has been filed under Article 226 of the Constitution of India, praying for the following substantive reliefs:

“(a) This Hon’ble Court may kindly be pleased to issue a Writ of Mandamus and/or any other Writ, order or direction in the nature of Mandamus directing Respondent Nos. 4 to 6 to issue an Occupation Certificate for the premises of Petitioner Society and do all other necessary acts towards the same;

(b) Be pleased to issue a direction to Respondent Nos. 1 to 3, to co-operate and do all such necessary actions in order to facilitate the issuance of Occupation Certificate in favour of the Petitioner Society;

3. Respondent no.4 has filed an affidavit-in-reply dated 26th November 2024. Further, the respondent no.5 has filed an affidavit-in-reply dated 16th May 2025, and an additional affidavit-in reply dated 8th April 2026. Brief facts of the case are as under :

4. The petitioner Society is a part of a larger project called “Platinum Heritage Project” which had two buildings viz. building nos. 1 and 2. Building no. 1 consisted of two wings and formed a separate society named “Rock Castle A and B Wing Co-Operative Housing Society”. The said Platinum Heritage Project is built on 3 plots bearing survey No. 137, Hissa No. 11 admeasuring 3840

square meters (Property A), bearing survey No. 137, Hissa No.6 admeasuring 5460 square meters (Property B), bearing survey No. 136, Hissa No. 1 admeasuring 500 square meters (Property C), which are amalgamated. In the present petition, we are concerned with building no. 2 viz. the petitioner society. The petitioner society consists of 100 members owning and occupying 102 flats in the society named “Eden Castle Co-operative Housing Society Ltd” which has 2 wings viz. A-Wing & B-Wing. Further, there are 10 units on which respondent no.5 shall remove the earmark and 1 ULC flat.

5. Respondent no. 1 is a developer, respondent no.2 is a partner of respondent no.1 and respondent no.3 is the sub-developer. For the development of the said Platinum Heritage Project, the respondent no.4 had issued a Commencement Certificate (“CC”, for short) bearing no. 001875 dated 4th July 2014 and an Amended CC bearing No. V.P. no. S05 /0051 /12/ TMC/ TDD/ 1740/16 dated 28th March 2017. In 2017, work of both the buildings were going in full swing. Upon completion of building no.1, the respondent no.4 had issued Occupation Certificate (‘OC’, for short) dated 7th February 2018 for the building no.1, but the

OC for building No.2 i.e., the present petitioner's society was not granted.

6. Given the difficulties faced by respondent no.1, they informed the members of petitioner society that respondent no.3 i.e. M/s. Akash Developers was brought in as a sub-developer in order to continue and complete the construction works of building no. 2. The petitioner society was promised that they shall handover the possession with OC within 3 months. However, since the members of the petitioner society had no say in the said arrangement, and in the interest of completion of the building no. 2 of Platinum Heritage Project and handover of possession of their respective flats, the members of petitioner society chose not to object so as to avoid causing any further delays.

7. Even after completing the building no.2 i.e., the present petitioner's society in 2019, OC was not issued by the respondent no.4. Therefore, the petitioner's society filed a complaint before MahaRERA, the said complaint was disposed of vide an order dated 12th November 2020, but no relief with respect to OC was granted. Subsequently, petitioner's society came to know that there

was a requirement for 20% of the plot area (approx. 1491.56 square meters) in the form defined under the inclusive housing scheme under Regulation 3.8.2 of the Unified Development Control and Promotion Regulation for Maharashtra (UDCPR) to be handed over to respondent no.5 which the respondent no. 1 to 3 had failed to do.

8. The respondent no. 1 to 3 has now in order to comply with the requirement to provide inclusive housing under Regulation 3.8.2 of UDCPR submitted a revised proposal dated 2nd March 2026 proposing to fulfill the requirement through providing tenements to be handed over to respondent no.5 in alternate projects Metropolis Insignia Towers and Swastik Regalia to the extent of 5 (five) tenements, admeasuring in the aggregate 373.45 sq. mtrs in Swastik Regalia (project of M/s Shree Sachdhanand Developers), a sister concern of respondent no.3 and 17 (seventeen) remaining tenements in Metropolis Insignia Towers, admeasuring 1138.15 sq. mtrs., which is approx. 20% area as per the requirement under the said regulation. On this basis, respondent no.5 has given an in-principle acceptance for the proposal.

9. The said proposal came to be accepted by respondent no.5 and accordingly an in-principle acceptance dated 5th March 2026 was issued. To place the said facts on record the respondent no.5 filed an additional affidavit-in-reply dated 8th April 2026, wherein the respondent no.5 in para 14 of the said affidavit has stated that they have no objection to the grant of OC in respect of the petitioner's building by respondent no.4 subject to the proposal dated 2nd March 2026 being complied with by respondent no.1 to 3's in their sister concern project named Metropolis Insignia Towers and Swastik Regalia.

10. The learned counsel appearing for respondent no.1 to 3 on instructions has also made a statement on behalf of respondent nos. 1 to 3 that they shall jointly and/or severally comply with the proposal dated 2nd March 2026 and hand over the units in Metropolis Insignia Towers and Swastik Regalia in a habitable condition after making the payment of all outstanding dues with respect to the said units as well as earmarking the said units for EWS Housing with respondent no.4 within 8 weeks from the date of the submission of the proposal. Further, respondent nos. 1 to 3 jointly and/or severally undertakes to comply with UDCPR rules

for obtaining an OC, including payment of any cost, premium, charges etc.

11. In the aforesaid circumstances the relief in terms of prayer clause 37 (a) and (b) are granted, to be complied within 8 weeks from today.

12. The said 31 tenements in the petitioner's society were originally sanctioned for handing over to MHADA without counting towards FSI (i.e., free of FSI) as per the Government Notification TPB4312/CR 45/2012/(1)/UD-11 dated 08th November 2013. The respondent nos. 1 to 3 are now handing over MHADA tenements in some other project, and thus the original 31 MHADA tenements are being converted into free-sale units. Hence, Respondent Nos. 1 to 3 are required to obtain amended building permission under UDCPR 2020 by including the built-up area of 31 tenements in the calculation of FSI, which were originally sanctioned as Free of FSI. After the grant of the amended building permission by the respondent no. 4 and compliance of all other provisions of UDCPR-2020 and conditions mentioned in building permission/s, which includes hand over of designated built-up

area to the Government as per provisions of ULC Act and procurement of NOC thereof, the respondent no. 1 to 3 will be entitled to apply for OC as regards petitioner's society.

13. The respondent nos. 1 to 3 jointly and/or severally are directed to comply with the requirements set out in paragraph 12 above as well as comply the shortcomings/ defects in the submitted proposal promptly for obtaining amended building permission as well as OC, including payment of any cost, premium, charges (including regularization charges) etc., within 8 weeks from today. It is further clarified that the petitioner's society and/or its members shall not be held responsible and/or liable for any payment towards obtaining OC for petitioner society.

14. The respondent no.4 is directed to grant the amended building permission and subsequent OC to the petitioner's society within 4 weeks' time from submission of complete proposals free from any shortcomings/ defects for amended building permission and/or OC subject to compliance of paragraph no. 12 and 13.

15. The statement given to the Court is accepted as undertaking to the Court.

16. The writ petition is disposed of in terms of the aforesaid directions and the same is placed on 24th June 2026 for compliance.

(S. M. MODAK, J.)

(M. S. KARNIK, J.)