

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

**WRIT PETITION (L) NO.1752 OF 2022**

Armaan Real Estate Pvt. Ltd. .. Petitioner  
Versus  
The Union of India & Ors. .. Respondents

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Mr.Pravin Samdani, Senior Advocate a/w Mr.Amogh Singh, Mr.Nivit Srivastava & Ms.Ajita Mishra i/by M/s.Maniar Srivastava Associates for the petitioner.

Mr.Y.R. Mishra a/w Mr.N.R. Bubna for the respondent no.1-UOI.

Mr.Ajay G. Khaire for the respondent nos.2 & 3.

Ms.Sharmila U.Deshmukh for the respondent no.4-MHADA.

Dr.Birendra Saraf, Senior Advocate a/w Mr.Arun Panickar for the respondent no.5-Mangalya Co-op. Hsg. Society.

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**ALONG WITH  
WRIT PETITION (L) NO.1901 OF 2022**

Juhu Geetanjali Vastushilp Co-operative  
Housing Society Ltd. & Anr. .. Petitioners  
Versus  
The Union of India & Ors. .. Respondents

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Dr.Veerendra Tulzapurkar, Senior Advocate a/w Mr.Saket Mone, Mr.Subit Chakrabarti, Mr.Ameet Mehta, Mr.Nirav Marjadi, Ms.P.Rathi and Mr.Sumeet Tyagi i/by M/s.Vidhii Partners for the petitioners.

Mr.Y.R. Mishra a/w Mr.N.R. Bubna for the respondent no.1-UOI.

Mr.Ajay G. Khaire for the respondent nos.2 to 4.

Mr.Kamlesh Ghumre a/w Ms.Sonali Jadhav for the respondent no.5.

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**CORAM : R.D. DHANUKA AND  
S.M. MODAK, JJ.  
DATE : 27<sup>th</sup> January 2022  
(through Video Conferencing)**

**P.C.:-**

. A short grievance in both these petitions is that after granting NOC by the respondent no.2-the Airports Authority of India to the petitioner for carrying out construction upto a particular height under the provisions of the Ministry of Civil Aviation (Height Restrictions for Safeguarding of Aircraft Operations) Rules, 2015, the same authority has cancelled the earlier NOC and has issued NOC by reducing the height substantially with retrospective effect.

2. A perusal of the record in Writ Petition (L) No.1752 of 2022 prima facie indicates that pursuant to the said NOC granted by the respondent no.2 earlier on 4<sup>th</sup> May 2021, the petitioner has taken several steps after obtaining further NOC from MHADA and various authorities for carrying out construction. The petitioner has already been granted Commencement Certificate for carrying out construction on 9<sup>th</sup> November 2021 on the basis of the Original Height Clearance NOC dated 4<sup>th</sup> May 2021 and further NOC issued by the MHADA on 9<sup>th</sup> July 2021. The petitioner has been also granted Intimation of Approval on 28<sup>th</sup> July 2021.

3. It is the case of the petitioner that pursuant to these all permissions, the petitioner has demolished the structures occupied by various members of the respondent no.5 society. The petitioner also claims to have spent substantial amount on obtaining various permissions and on payment of premium to the authorities and compensation to the members of the society upon demolishing their structures.

4. Facts and the legal issues raised in Writ Petition (L)

No.1901 of 2022 are almost identical.

5. A preliminary objection raised by the learned counsel for the respondent nos.2 & 3 is that the petitioner has an alternate remedy by way of filing an appeal.

6. Upon considering the facts of this case, prima facie, we are of the view that the respondent nos.2 and 3 have no power to cancel the earlier NOC permitting particular height and to substitute by another NOC with retrospective effect by substantially reducing the height permission already granted earlier.

7. Learned counsel for Airports Authority seeks time to file affidavit-in-reply. Affidavit-in-reply, shall be filed by the respondent nos.2 & 3 within two weeks from today with a copy thereof to be served upon the petitioner's advocate. Rejoinder, if any, shall be filed within one week thereafter with a copy to be served upon the respondents' advocate.

8. There shall be ad-interim relief in terms of prayer clause (b) in Writ Petition (L) No.1752 of 2022 until further orders. It is made clear that if the petitioner carry out any construction on the plot in question from the date of this order, the same would be subject to the further orders that may be passed by this Court on the next date.

9. We also grant ad-interim relief in Writ Petition (L) No.1901 of 2022 in terms of prayer clauses (f) & (g). It is made clear that the

construction, if any is carried out in that writ petition from the date of this order and permission that would be granted by the respondent no.5, if any, in terms of prayer clause (g) would also be subject to the further orders that may be passed by this Court on the next date.

10. Place both these petitions High on Board on 24<sup>th</sup> February 2022. Parties to act on the authenticated copy of this order.

***S.M. MODAK, J.***

***R.D. DHANUKA, J.***