

Prajakta Vartak

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

**WRIT PETITION NO. 1386 OF 2022
WITH
INTERIM APPLICATION (L.) NO.20798 OF 2022**

Juhu Geetanjali Vastushilp
Co-op. Hsg. Society Ltd. & Anr. ...Petitioners
Vs.
Union of India & Ors. ...Respondents

**AND
WRIT PETITION NO. 3000 OF 2024**

Gurukrupa Realcon Infrabuild LLP & Anr. ...Petitioners
Vs.
The General Manager, ATM Western Region
Airports Authority of India Headquarters & Anr. ...Respondents

**AND
WRIT PETITION NO. 1445 OF 2022**

Shree Mahavir Estate Ameya & Anr. ...Petitioners
Vs.
Union of India & Ors. ...Respondents

**AND
WRIT PETITION (L.) NO. 4894 OF 2022**

Parinee Realty Pvt. Ltd. ...Petitioner
Vs.
Union of India & Ors. ...Respondents

**AND
WRIT PETITION (L.) NO. 4902 OF 2022**

Parinee Vir Bhuvan Redevelopment Pvt. Ltd. ...Petitioner
Vs.
Union of India & Ors. ...Respondents

**AND
WRIT PETITION (L.) NO. 4904 OF 2022**

Parinee Juhu Anamika Redevelopment Pvt. Ltd. ...Petitioner

Vs.
Union of India & Ors. ...Respondents

AND
WRIT PETITION NO. 1625 OF 2024

Parinee GBMC Arunodaya Redevelopment Pvt.Ltd. ...Petitioner
Vs.
Union of India & Ors. ...Respondents

AND
WRIT PETITION (L.) NO. 5347 OF 2022

D. N.Nagar Sai Krupa Co-op. Hsg. Soc. Ltd. ...Petitioner
Vs.
Union of India & Ors. ...Respondents

AND
WRIT PETITION NO. 3728 OF 2022
WITH
INTERIM APPLICATION (L.) NO. 30793 OF 2024

Platinum Corp Developers LLP ...Petitioner
Vs.
Union of India & Ors. ...Respondents

AND
WRIT PETITION NO. 2459 OF 2022
WITH
INTERIM APPLICATION NO. 1377 OF 2022

Armaan Real Estate Private Limited ...Petitioner
Vs.
Union of India & Ors. ...Respondents

Dr. Milind Sathe, Senior Advocate with Mr. Saket Mone, Mr. Subit Chakrabarti, Mr. Makarand Savant, Ms. Khushnumah Banerjee i/b Vidhi Partners for Petitioner in WP/1386/2022.

Mr. Yogesh C. Naidu with Mr. Eden Ribeiro, Ms. Madhura Jadhav for Petitioner in WP/3000/2024.

Mr. Mayur Khandeparkar with Mr. Nishant Chotani, Nivit Srivastay, Ms. Sneha Patil and Mr. Yash Chheda i/b Maniar Srivastava Associates for Petitioner WPL/5347/2022, WP/3728/2022 and WP/2459/2022.

Mr. Mayur Khandeparkar with Ms. Viloma Shah, Ativ Patel, Mr. Harshad

Vyas i/b M/s. AVP Partners for Petitioner in WP/1625/2024, WPL/4894/2022, WPL/4902/2022, WPL/4904/2022.

Mr. Y. R. Mishra with Mr. N. R. Bubna, Mr. Upendra Lokegaonkar Mr. Sachidanand T. Singh, Ms. Pooja Malik for R. No. 1 U.O.I.

Mr. Anil Singh, Senior Advocate with Mr. Ajay Khaire for Respondent (AAI).

Mr. Girish Utangale with Mr. Sarthak Utangale i/b M/s. Utangale & Co. MHADA.

Mr. Mahendra Agvekar with Ms. Shraddha Chavan for Respondent No. 5 in WPL/4904/2022.

Mr. Arun Panickar with Mr. Vinay Nair for R. No. 5 in WP/3728/2022 and 1445/2022 and 2459/2022.

**CORAM: G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.**
DATE: 07 JANUARY 2025

P.C.

1. This batch of petitions is listed today on the backdrop of the earlier orders. Common issues of law and fact are involved in these proceedings which are primarily in regard to the No Objection Certificates (**NOCs**) which are granted in favour of the owners of the lands which are inter alia Co-operative Societies who have undertaken construction/ redevelopment of their respective buildings.

2. The grievance of the petitioners is that the NOC granted to the petitioners to undertake construction of its building has been arbitrarily cancelled restricting the construction by a fresh NOC with lesser height. It is informed at the Bar that in some cases, on the basis of the NOC, construction has already been completed as also Occupation Certificate has

been granted to the construction. In some of the cases, construction is underway. It is also the case of the petitioners that there are other several existing buildings with larger heights, hence the impugned NOCs issued on the basis of the 2020 amended regulations cannot be foisted on the petitioners.

3. These writ petitions are of the year 2022. There are earlier substantive orders including an order dated 14 December 2023 passed by the Division Bench of this Court directing respondent no.1 to file its reply affidavit. The role of Union of India is in the context of a challenge as mounted by the petitioner in Writ Petition No. 2459 of 2022 to the validity of the provisions of Ministry of Civil Aviation (Height Restrictions for Safeguarding of Aircraft Operations) Rules, 2015 and subsequent amendment to it of the year 2020. Despite more than one year, instructions are not being given to Mr. Mishra and Mr. Bubna, learned counsel appearing for Union of India. We are really surprised that the concerned officials from the Ministry of Civil Aviation have neither chosen to give instructions nor despite repeated requests from the panel counsel has made any attempt to file reply affidavit.

4. Considering the nature of the earlier order, we are of the opinion that such a position taken on behalf of the Ministry of Civil Aviation in fact amounts to non-compliance of the orders passed by this Court which may

entail this Court to proceed in the matter, forfeiting the rights of the respondents to file any pleadings. However, it appears to us that both Mr. Mishra and Mr. Bubna, learned panel counsel for the Ministry of Civil Aviation are totally helpless on account of such inaction of the concerned department. We may observe that in similar circumstances, there are several orders passed by this Court in multiple proceedings where cost was imposed. Be that as it may, nonetheless we grant an opportunity to the Ministry of Civil Aviation to file affidavit in reply, if he so desires, on or before the adjourned date of hearing. Copy of the reply affidavit be served on all the parties. In the event the affidavit in reply is not filed and served on all the parties, it would be presumed that the Ministry of Civil Aviation is not interested to contest the proceedings and the matter shall accordingly proceed.

5. We also permit the petitioners to move formal interim applications for transposing of the parties as discussed in the Court, which learned counsel for the parties have also fairly agreed. List such applications on the adjourned date of hearing.

6. The parties are put to notice that on the adjourned date of hearing, an earliest convenient date shall be assigned for final hearing of these petitions. All the petitioners are directed to place on record an appropriate list of dates in so far as their respective cases are concerned. If the legal submissions are

to be advanced on behalf of all these petitioners, we direct that common legal submissions be separately filed by the counsel having a mutual consultation, for convenience to the parties as also the Court. Copies of the legal submission be also served on the learned advocate appearing for the Airport Authority as also Union of India.

7. Insofar as the Airport Authority and Union of India are concerned, we direct these parties also prepare common legal submissions to be advanced, and place the same on record on or before the adjourned date of hearing. Copy of the same be furnished to the advocate for the petitioners and the other parties.

8. We also direct that in the event there are common documents of relevance including rules and regulations sought to be relied upon, a convenience compilation be prepared which can be a common compilation in so far as all these matters are concerned. The same be circulated inter se between the parties as also placed on record. Let all the aforesaid formalities be completed within two weeks from today. We propose to list these petitions for final hearing at 03.30 p.m. on 28 January 2025.

9. List the proceedings on **21 January 2025** for orders to be passed on interim applications which may be filed by the petitioners and for compliance of our directions in regard to the affidavit in reply to be filed on

behalf of Union of India. Rejoinder affidavit, if any to the affidavit of Union of India, be filed on or before 21 January 2025.

10. Considering the nature of the grievance, we request the learned ASG to appear in these proceedings.

11. Permission to file additional affidavit on behalf of the respondents in Writ Petition No. 2459 of 2022. Copies of the same be served on all the respondents.

(ADVAIT M. SETHNA, J.)

(G. S. KULKARNI, J.)