

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.1633 OF 2013**

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Everest Goods Pvt.Ltd. & Anr. ...Petitioners
v/s.
Municipal Corporation of Brihan Mumbai
and ors. ...Respondents

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Mr.S.U.Kamdar, Senior Advocate i/b M/s.Kanga & Co. for
petitioners.
Mr.A.B.Ketkar AGP for State.
Ms.Sharmila Modle for BMC.

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**CORAM: MOHIT S. SHAH, C.J. &
M.S.SANKLECHA, J.
DATE : 27 AUGUST 2013**

P.C.::

Rule. To be heard with "Writ Petition No.2243 of 2011
and Writ Petition No.1322 of 2012.

2. Notice to the learned Advocate General, returnable on
23 September 2013.

3. Heard learned counsel for parties on the question of
intrerim relief.

4. The petitioner has challenged the constitutional
validity of the provisions of Maharashtra Act No.20 of 2012
amending the Municipal Corporation Act 1888 and validiting the
levy of premium upon transfer of lease hold rights over the land
belonging to the Municipal Corporation.

5. By the impugned notice dated 31 December 2012 (Exh.F), the petitioner has been called upon to pay Rs.1,8,40,836 (page 122) as the premium amount, which is premium at the rate of 10% on the transfer consideration.

6. Having heard learned counsel for parties, we do not find this to be a fit case for granting interim relief as prayed for. Even in cases where the Corporation had levied 50% transfer premium, we have not granted any interim relief.

7. In the result, prayer for interim relief is refused with a clarification that the petitioner may pay the amount of transfer premium at the rate of 10%, without prejudice to the petitioner's rights and contentions, and in case the petitioner succeeds in this petition, the respondent-Corporation will refund the amount with interest at such rate that the Court may direct at the final hearing.

8. Upon the petitioner paying the amount of transfer premium at the rate of 10%, as aforesaid, the respondent-Municipal Corporation shall process the petitioner's application for sanction of the building plans on the land in question.

CHIEF JUSTICE

(M.S.SANKLECHA, J.)