

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1576 OF 2013

Narendra Raghavji Kenia HUF & Anr.

....Petitioners.

Vs.

Municipal Corporation of Gr. Mumbai & Ors.

....Respondents.

Mr. P.K. Samdhani Senior Advocate with Mr. Birendra Saraf I/by
Hariani & Co. for the Petitioners.

Mr. A.A. Kumbhakoni, Senior Advocate with Mr. A. Gavnekar with Ms.
Komal Punjabi for Respondent Nos.1 to 3.

CORAM : ANOOP V. MOHTA AND

M.S. SONAK, JJ.

DATE : 30 APRIL 2014.

P.C.:-

Rule, returnable on 23 June 2014. To be heard along with
Writ Petition No.2243 of 2011 and Writ Petition No. 1322 of 2012.

2 The learned senior counsel appearing for the Respondents,
by referring to order passed by this Court dated 1 August 2013 in Writ
Petition No. 1322 of 2012, submitted that this Petition be tagged along
with the other connected matters, as the issues with regard to the
recovery of transfer premium @ 50% or 10% and so also the issue
with regard to validity of the Mumbai Municipal Corporation

(Amendment and Validation) Act, 2011. The submission therefore, also made that on the same terms and conditions of depositing the amount in Court, they are inclined to grant NOC for full occupation certificate.

3 The learned counsel appearing for the Petitioners, however submitted that in view of the undertaking already given and for want of specific policy with regard to the demand during the relevant period and in absence of the charging formula or the demand as made, is impermissible and not acceptable. Therefore, the order should be passed as prayed, unconditionally and as there is no question of any deposit as insisted and if in case Court is not willing, then they are willing to furnish the bank guarantee for the amount.

4 Taking overall view of the matter, at this stage, we are inclined to accept the line of action so adopted by this Court by order dated 1 August 2013. Therefore, the following order:-

ORDER

- a) The Petitioner, on depositing an amount of Rs.2 crores 3 lacs in this Court, the Estate Department of

the Corporation to grant NOC within four weeks.

- b) The Respondents thereafter will process the Application for occupation certificate as expeditiously as possible, preferably within 4 weeks.
- c) The amount if deposited, shall be invested in fixed deposit with any nationalized bank, initially for a period of one year or for such period for which maximum rate of interest is available.
- d) Upon expiry of such period/s, the fixed deposit will be renewed from time to time without any further orders of the Court.
- e) Hearing expedited.
- f) The Respondents to file affidavit, if any.
- g) The parties to complete the pleadings within 8 weeks.
- h) Stand over to 23 June 2014 for final hearing with other matters.

(M.S. SONAK, J.)

(ANOOP V. MOHTA, J.)