

PVR

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 18313 OF 2025

Eversmile Construction Company Pvt. Ltd. & Anr. ...Petitioners
Vs.
The State of Maharashtra & Ors. ...Respondents

Mr. Virag Tulzapurkar, Senior Advocate with Mr. Chetan Kapadia, Senior Advocate, Mr. Abhishek Kothari, Mr. Samit Shukla, Ms. Shivani Khanwilkar i/b. Trilegal, for Petitioners.

Ms. Nishigandha Patil, AGP for Respondent No.1-State.

Ravleen Sabharwal with Ms. Aarushi Yadav, Mr. Mandar B. Waidande, for Respondent No.2-SRA.

Ms. Meena Dhuri i/b. Ms. Komal Punjabi, for Respondent No.3-BMC..

**CORAM: G. S. KULKARNI &
 ARIF S. DOCTOR, JJ.**

DATE: 23 JUNE 2025.

P.C.

1. Considering the additional affidavit as placed on record on behalf of the petitioners, we find that the amounts in the bank account of the petitioner are frozen as informed to the petitioner by a letter dated 19 June 2025 issued by Yes Bank.

2. The grievance of the petitioners is to the effect that before the impugned action could be taken, acting upon the communication dated 9 June 2022, no show cause notice was issued to the petitioners, as also no opportunity of a hearing was accorded to the petitioners. This more significantly when at all material time it is the petitioners' contention that the petitioners were entitled to the benefit of the Government Order dated 14 May 2009 (Exhibit "T", page 163), whereunder the petitioners were exempted from the FSI area under the

staircase, lift and lobby, which was not to be counted under the total FSI qua the project and the TDR to that extent was available to the petitioners under the Government Policies. This, according to the petitioners, was to enable to make way to construct more tenements for the benefit of slum dwellers. Also there was no misuse by the petitioners of their entitlement of the TDR in that regard so as to face any enquiry on such issue.

3. The SRA is now required to respond to such contentions as urged on behalf of the petitioners.

4. In the aforesaid circumstances, we are of the opinion, that till the adjourned date of hearing no further coercive steps be taken on the attachment notice dated 29 May 2025 issued to the petitioners, by respondent no.5.

5. Mr. Tulzapurkar, learned Senior Counsel for the petitioners, has also prayed for ad-interim orders in regard to the bank account which has been freezed at the behest of respondent No.5 to recover an amount of Rs.46 crores.

6. Considering the contentions as urged on behalf of the petitioners and that such action which is recent and/or subsequent to filing of the petition, we are of the opinion that subject to the petitioners furnishing an undertaking to the Court that they shall bring back such amount as demanded, if so ordered by the Court, for which the petitioners account has been frozen, there shall be a stay on the action of freezing of the petitioners' bank account held with the Yes Bank. Let such undertaking be placed on record on the day a copy of this order is available, as also a copy of this order and a copy of such undertaking filed in the Court be

furnished by the petitioners to the Yes Bank.

7. At this stage Mr. Tulzapurkar has prayed for leave to amend in terms of the draft amendment so as to substitute prayer clauses “A” and “C(i)”. A copy of the amendment is furnished to the learned Advocate for the respondents in the Court.

8. Leave to amend. Let amendment be carried out within two days from today. Reverification is dispensed with.

9. Parties to act on the authenticated copy of this order.

(ARIF S. DOCTOR, J.)

(G. S. KULKARNI, J.)