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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION (L) NO.33467 OF 2024
IN
LAND ACQUISITION REFERENCE NO.4 OF 2014

New Riviera CHS Ltd. and Ors.

...Applicant/
Petitioner

Versus

The Special Land Acquisition Officer, MHADA ...Respondents
and Ors.

Mr. Himanshu Takke, AGP for the Acquisition Officer.

Mr. Ashok R. Varma for Acquiring Body.

Mr. Shriram S. Kulkarni with Ms. Sonia Miskin for Respondent No.1.

Mr. Vasant Dhawan for Respondent Nos.2(a) and 2(b).

CORAM : R.I. CHAGLA J.
DATE : 29TH APRIL, 2025.

ORDER :

1. By this Interim Application, the Applicant / Original Respondent No.1 has sought for recall of the Order dated 23rd August, 2023 of closing Examination in Chief and for permission to the Applicant to lead evidence. Further, relief is sought for allowing the Applicant / Original Respondent No.1 to amend the index of compilation of documents and the Affidavit of Examination in Chief dated 2nd August, 2023 by inserting Index-II at Serial No.1A. Relief

is also sought for taking on record the document (Index-II) at Serial No.1A in the compilation of documents and be marked and exhibited separately.

2. The Applicant has referred to the Examination in Chief by way of Affidavit dated 2nd August, 2023 along with compilation of documents bearing the same date. The Applicant had referred to the Index-II of the property in compilation of documents dated 2nd August, 2023. However, inadvertently the Applicant failed to produce the original document in compilation of document dated 2nd August, 2023 as well as in the Affidavit of Examination in Chief. The Applicant has accordingly submitted the original Index-II document to show that the property has been in the name of the Applicant – Society.

3. The Applicant has sought for amendment of the compilation of document dated 2nd August, 2023 by inserting Index-II at Serial No.1A and for the document to be taken on record and marked as exhibited.

4. Mr. Kulkarni, the learned Counsel appearing for the Applicant has submitted that by an Order dated 23rd August, 2024, this Court had after recording Question and Answer No.19 in cross

examination of Claimant's Witness No.1 had considered the submissions of Mr. Kulkarni for Respondent No.1 – Society that two documents which are claimed to have been produced have not been marked in evidence. This Court had accordingly granted leave to the Applicant to take out appropriate application for marking of documents which remained to be marked. This is in view of the cross examination of Claimant's Witness No.1 having already commenced. Accordingly, the present Interim Application is taken out.

5. Mr. Kulkarni has submitted that permission be granted to the Applicant to file additional Affidavit of Evidence to produce the documents which remained to be marked. He has submitted that there is one more document namely Deputy Collector's Notice dated 23rd October, 1978, copy of which is sought to be produced.

6. There is a formal objection to the marking of the documents raised by Mr. Varma, the learned Advocate for the Acquiring Body.

7. I have considered that by an Order dated 23rd August, 2024 read with subsequent Order dated 6th December, 2024, this Court has delineated the reason for halting the cross examination of Claimant's Witness No.1 and permitting the Applicant to file

appropriate Interim Application so that the documents which are already produced by Claimant's Witness No.1 along with compilation of documents and Affidavit of Documents may to be marked and exhibited.

8. Accordingly, the said Order dated 23rd August, 2024 to the limited extent of it closing Examination in Chief of the Claimant's Witness No.1 Mr. Atul Gupte is recalled. The Applicant is permitted to file additional Affidavit of Evidence of Claimant's Witness No.1, Mr. Atul Gupte in respect of the aforementioned three documents which the Claimant's Witness No.1 now intends to produce have marked. It is noted that in respect of two documents i.e. property card and Index-II, Question Nos.18 and 19 were put in cross examination to the Claimant's Witness No.1.

9. The additional Affidavit of Evidence of Claimant's Witness No.1 shall be filed by 2nd May, 2025.

10. Matter is accordingly placed on 2nd May, 2025 at 2.30 p.m. for marking of documents.

[R.I. CHAGLA J.]