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SLP(C)No. 19236 OF 2001

ITEM No.204

Court No. 4

SECTION IX
A/N MATTER

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No.19236/2001

(From the judgement and order dated 13/03/2001 in WP 983/2000
of The HIGH COURT OF BOMBAY)

GOYAL PROPERTIES & ESTATES PVT. LTD.&ANR

Petitioner (s)

VERSUS

MUNICIPAL CORPORATION OF GREATER MUMBAI

Respondent (s)

(For Final Disposal)

Date : 04/04/2003 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.C. LAHOTI

HON'BLE MR. JUSTICE S.B. SINHA

For Petitioner (s)

Mr. Sanjay Parikh,Adv.

Mr.A.N. Singh,Adv.

Ms. Vandana Sudan, Adv.

For Respondent (s)Mr. Pallav Shishodia, Adv.

Mrs.Suchitra Atul Chitale,Adv.

For A..Y. Chitale & Associates, Adv.

UPON hearing counsel the Court made the following

O R D E R

Leave granted.

The appeal is disposed of in terms of the signed order.

No order as to the costs.

(Ajay Kr. Jain)

(Radha R. Bhatia)

Court Master

Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2003

(Arising out of SLP(C) No. 19236 of 2001)

Goyal Properties & Estates Pvt. Ltd. & Anr.

....

Appellants

Versus

Municipal Corporation of Greater Mumbai (Through Its Commissioner)

....

Respondent

O R D E R

Leave granted.

In the impugned order dated 13.3.2001, the High Court has acted on the assurance given by the learned counsel for the Municipal Corporation of Greater Mumbai that the Corporation shall within a reasonable time either make allotment in respect of the plot being Unit No. 123 or else Unit will revert back to the appellants and the appellants would be entitled to dispose of the same. The petitioners-appellants submit that in view of the unreasonable time lost and the Corporation having withheld the land without either allotting it or releasing it, the appellants should be held entitled to payment of price of the land and the land must be retained by the Municipal Corporation of Greater Mumbai or allotted by it. We find it difficult to accept such prayer of the appellants. The learned counsel for the respondent-Municipal Corporation of Greater Mumbai submits that pursuant to the order of the High Court the land has been released and has reverted back to the appellants. If the land has not already reverted and restored to the possession of the appellants then the Municipal Corporation of Greater Mumbai shall see that the possession is restored to the appellants within a period of six weeks from today. The appellants shall be at liberty to use the land or dispose of the same as has been ordered by the High Court.

The learned counsel for the appellants submitted that for unlawful retention of the land by the Municipal Corporation beyond the permissible period, the appellants should be awarded damages. This plea raises disputed questions of fact. We leave such claim to be agitated upon and adjudicated by a competent forum, for which the cause of action to the appellants arises today. The appeal stands disposed of in the above terms. No order as to the costs.

.....J.
(R.C. LAHOTI)

.....J.
(S.B. SINHA)

New Delhi
April 04, 2003