

ITEM NO.7

COURT NO.6

SECTION IX

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

I.A. 4/2015 in Petition(s) for Special Leave to Appeal (C) No(s).
4483/2015

(Arising out of impugned final judgment and order dated 03/09/2014
in WP No. 10480/2009 passed by the High Court Of Bombay)

M/S GENERAL GLASS MACHINERY PRIVATE LTD AND OTHERS Petitioner(s)

VERSUS

THE PRINCIPAL SECRETARY, URBAN DEVELOPMENT
DEPARTMENT AND ORS.

Respondent(s)

(for directions and office report)

Date : 10/08/2015 This application was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J. CHELAMESWAR
HON'BLE MR. JUSTICE ABHAY MANOHAR SAPRE

For Petitioner(s) Mr. Shyam Divan, Sr. Adv.
 Mr. Amol Chitale, Adv.
 Ms. Pragya Baghel, Adv.

For Respondent(s) Mr. Nishant Katneshwarkar, Adv.
 Mr. Arpit Rai, Adv.

Mr. Yashank Adhyaru, Sr. Adv.
Ms. Rekha Pandey, Adv.
Ms. Kiran Bhardwaj, Adv.
Ms. Sushma Suri, Adv.

Mr. Aniruddha P. Mayee, Adv.
Mr. Charudatta Mahindrakar, Adv.
Mr. A. Selvin Raja, Adv.

UPON hearing the counsel the Court made the following
O R D E R

IA no. 4/2015 has been filed with the prayer as
follows:-

"That in the facts and
circumstances of the case it is humbly

prayed that this Hon'ble Court may be pleased to:

a) Pass an order allowing the present application for directions and direct the Talegaon Dabhade Municipal Council to consider the application dated 13/02/2013 and 13/02/2015 made by the Petitioner for grant of Completion Certificate in respect of buildings constructed on Survey No. 393/2B+2A/1 situated at Talegaon Dabhade Nagar Parishad Area, in accordance with law without insisting on any No Objection Certificate by the competent authority under the Urban Land Ceiling Act and

b) Pass any other order as this Hon'ble Court may deem fit in interest of justice."

The special leave petition in which the instant IA is filed against an order dated 3rd September, 2014 of a Full Bench of the Bombay High Court in Writ Petition No. 10480 of 2009. Without going into the full factual details of the case, we may indicate that the first petitioner filed a Declaration under the Urban Land(Ceiling and Regulation) Act, 1976 claiming title to an extent of 33487.80 square metres. Pursuant to the claim of the first petitioner, an exemption under Section 20 of the said Act was granted by the State of Maharashtra subject to certain conditions under which the petitioner was admittedly liable to surrender an extent of 2961.95 square metres of land out of the above-mentioned extent.

However, the above-mentioned enactment came to be repealed by the Parliament with liberty to the concerned States to notify the date from which repeal takes effect on the State. Admittedly, in so far as the State of Maharashtra is concerned, the repeal of such enactment came to effect in 29.11.2007. Eventually, the question arose whether the exemption (in view of the repeal of the enactment) granted to the first petitioner still survives and the condition subject to which such exemption was granted to the first petitioner is still enforceable. The said question came to be considered by a full Bench of the Bombay High Court and the decision went in favour of the State of Maharashtra. Hence the special leave petition.

It appears, in the interregnum, the first petitioner entered into a development agreement with petitioner no. 2 for the construction of flats in the land in question. The construction is complete and the petitioners have agreed to sell the flats in favour of various persons and the sale deeds are to be executed. But such an execution is possible only on obtaining appropriate permissions from the Talegaon Dabhade Municipal Corporation. The said Municipality, it appears is insisting upon a certificate of clearance from the State of Maharashtra as a condition precedent for its permission referred to above. In view of the pending claim of the State of Maharashtra and the dispute before this Court in the above-mentioned special leave petition, the State of Maharashtra is not inclined to grant such a clearance and hence the instant IA.

Learned counsel for the petitioner submitted that, assuming for the sake of the arguments, if the petitioners lose the special leave petition, the petitioners' liability

in so far as State of Maharashtra is concerned is only to surrender an extent of 2961.95 square metres but not in the entire piece of land owned by them. The petitioners, therefore, submit that they have earmarked a portion of the land ad-measuring 2961.95 square metres which they would surrender in the event of losing the special leave petition. The petitioners, therefore, submit that in view of the fact that interests of the State of Maharashtra are taken care of, the Municipal Council be directed to consider the application of the petitioners for the grant of appropriate certificates without insisting upon the clearance from the State of Maharashtra.

Heard Mr. Nishant Katneshwarkar, learned counsel for the State of Maharashtra.

Learned counsel submitted that subject to the satisfaction of the State Government regarding the measurement of the land which the petitioners propose to earmark for surrender (the area of 2961.95 square metres), to satisfy the claim of the State of Maharashtra, in the event of the State succeeding in the special leave petition, the State has no other claim against the petitioners in so far as this case is concerned.

In the circumstances, we deem it appropriate to allow the application as prayed for. Ordered accordingly.

(DEEPAK MANSUKHANI)
COURT MASTER

(INDU BALA KAPUR)
COURT MASTER