



Y.S.Patil

1

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO. 20449 OF 2021

Macrotech Developers Limited ... Petitioner
Versus
The Municipal Corporation for
Greater Mumbai and Ors. ... Respondents

Mr. Amogh Singh i/b Jeet Gandhi for the Petitioner.
Mr. A.Y. Sakharkar a/w Ms. Oorja Dhond for the
Respondent-BMC.
Mr. Honil Gala authorised representative of the Petitioner
present.

**CORAM: A. A. SAYED &
ABHAY AHUJA, JJ.**

DATE : 23rd DECEMBER 2021.

P.C. :-

By the present Writ Petition, the Petitioner has impugned the demand for payment of Development Charges raised by the Respondent-Corporation. The Petitioner is the owner of land bearing Survey Nos. bearing CS Nos. 464 of Lower Parel Division lying and situate at Senapati Bapat Marg, Lower Parel Division (G/South) Ward, Lower Parel, Mumbai - 400 013. The

Petitioner is inter alia constructing on the said land a residential-cum-commercial project named 'The Park'. It is the Petitioner's case that the Development Charges sought to be levied by the Respondent Corporation is payable as per the 'pre-dominant' user of the Project.

2. The Petitioner relies upon Section 124A and Section 124B of the Maharashtra Regional Town Planning Act ('MRTP Act'). It is the Petitioner's case that the Floor Space Index (FSI) consumed/to be consumed in the said Project is as follows :

For 6 Residential Wings : 323267.92 Square meters

For 1 Commercial Wing : 31074.25 Square Meters

TOTAL : 354342.17 Square Meters'

3. The Petitioner further submits that the Ratio of the FSI to be consumed with respect to the Residential Wings vis a vis the Commercial Wing is 91:09. Therefore, the pre-dominant use of the project is 'Residential'.

4. The Petitioner relies upon several orders of this Court in the following matters:

I. WP LD VC No. 108 of 2020 (Macrotech

Developers Ltd Vs. State of Maharashtra and Ors.)

- II. Writ Petition 102 of 2021 (Landcare Realty LLP and Anr. Vs. MCGM and Ors.)
- III. Writ Petition No. 19 of 2021 (Purvankara Ltd Vs. MCGM and Ors.)
- IV Writ Petition No. (St) 9537 of 2021 (Incline Realty Pvt. Ltd Vs. MCGM and Ors.)

5. The issue with regard to Development Charges is pending for final consideration in the aforesaid Writ Petitions. In the meantime, this Court has granted interim reliefs in the above mentioned matters.

6. Learned Senior Counsel appearing on behalf of the MCGM opposes the grant of any Interim Relief.

7. Having heard the learned Counsel for the parties, in our view, the issue raised in the present Petition would be covered by the orders passed by this Court in the Writ Petitions mentioned herein-above.

8. In light of the above we pass the following order:

ORDER

- A) Rule. By way of interim relief we direct the Respondents to process and accept the application for approvals made by the

Petitioner including the grant of Commencement Certificate / further endorsement of Commencement Certificate for the Commercial Wing in the project by name 'The Park' upon payment made by the Petitioner of Development charges/ cess at the rate of 4% of the Ready Reckoner Rate.

- B) We record the statement of the learned Counsel for the Petitioner on instructions that the Petitioner shall also furnish a Bank Guarantee of a Nationalised Bank to the Respondent-Corporation within 15 days from today amounting to 2% of the Development Charges/cess for a period of one year to be renewed from time to time till the disposal of the present Petition. The said statement shall be treated as an Undertaking of the Petitioner to this Court.
- C) The Respondents are restrained from taking any coercive action in respect of the impugned demand notice.
- D) The hearing of the Writ Petition is expedited. The Writ Petition to be heard along with Writ



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5

22-WP(L)-20449-2021.doc

Petition (L) No. 9637 of 2021, Writ Petition LD
VC No. 108 of 2020, Writ Petition No. 19 of
2020 and Writ Petition (L) No. 15835 of 2021.

(ABHAY AHUJA, J.)

(A. A. SAYED, J.)