

From: Vishal Thakkar

Subject: Royalty Petition W.P.No.6702 of 2011 & Civil Application No.1346 of 2014.

Ref. No.: MCHI/CEO/14-15/022

July 16, 2014

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2014
C.M.

To,
**All Members of MCHI-CREDAI &
MCHI-CREDAI Units.**

Dear All,

Sub.: Royalty Petition W.P.No.6702 of 2011 & Civil Application No.1346 of 2014.

MCHI would like to apprise its members that, State of Maharashtra had applied to the Hon'ble High Court for vacating the Interim Stay Order (dt.5th Sep.2011), granted to the members of MCHI in Royalty matter.

A Civil Application was moved on 17th June 2014, before the Hon'ble Division Bench of J. A.S. Oka & J. A.S. Chandurkar. The Hon'ble Court opined that, the show cause notices received by the members of the Petitioners (i.e. Members of MCHI) were challenged in the petition filed by them. The members can always challenge the Orders passed in the show cause notice, which has been considered and elaborated in para 4 of the Interim Order. Therefore, the Civil Application filed by the State is rejected. Also, the Hon'ble Court made it clear that this Order dt. 5th September 2011, shall stand till the outcome/disposal of the SLP No.33002 of 2010 filed by the Promoters & Builders Ass. Of Pune v/s State of Maharashtra.

Regards,
For MCHI-CREDAI

S. S. Hussain, IAS (Retd.)
CEO

Encls.: Copy of Order dt.17th June 2014 &
Copy of Order dt.5th September 2011.

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Mumbai High Court.
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION No.1346 of 2014
IN
WRIT PETITION NO.6702 of 2011

The State of Maharashtra through
Principal Secretary, Revenue Department
and others

... Petitioners.

Vs.

Maharashtra Chamber of Housing Industry
through Chief Manager, Mr Chandra Prakash
Goyal and Ors

... Respondents.

Mr N.E. Deshpande, AGP for the Petitioner.
Mr Uday P. Warunjikar, Advocate for the Respondents.

CORAM : A.S. OKA & A.S.CHANDURKAR, JJ.
DATE : 17th June 2014.

PC.

1. Heard learned AGP appearing for the Applicant. Prayer in this application is for vacating interim relief granted by this Court on 5th September, 2011.

2. The submission of the learned AGP is that if the interim order is modified and authorities are allowed to pass orders on show cause notice, no prejudice will be caused to the members of the first Petitioner in the writ Petition as the State Government is willing to make a statement that till the disposal of Special Leave Petition No. 33002/2010, the orders will not be

implemented.

3. From perusal of the order dated 5th September, 2011, we find that interim relief was granted after hearing the learned AGP. The submission of the learned AGP that challenge in the writ petition is only to the show cause notice and the Petitioners can always challenge the orders passed on the show cause notice, has been considered by the Division Bench as elaborated in paragraph 4 of the order dated 5th September, 2011. No case of any change in circumstances is made out. Hence, the civil application is rejected. However, after disposal of the Special Leave Petition No. 33002 of 2010, it will be open for the applicants to move a fresh application for grant of relief which is claimed in this application.

(A.S.CHANDURKAR, J)

(A.S. OKA, J)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.6702 OF 2011

Maharashtra Chamber of Housing Industry & Ors. : Petitioners

V/s.

The State of Maharashtra & Ors. : Respondents

....

Mr.Uday P. Warunjikar for the petitioners.

Mr.V.S.Gokhale, Asstt. Govt. Pleader for respondent nos.1 to 3.

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CORAM : D.D. SINHA & R.Y.GANOO, JJ.

DATE : SEPTEMBER 05, 2011.

P.C.:

Heard the learned counsel for the petitioners and the learned Asstt. Govt. Pleader for the respondent nos.1 to 3.

2. The petitioners have challenged the notices issued by the respondent under section 48(7) of the Maharashtra Land Revenue Code, 1966 whereby the petitioners were called upon to show cause why the amount mentioned in the respective notices should not be imposed as royalty and be recovered from the petitioners.

3. At the outset, the counsel for the petitioners has contended that similar/identical challenge was raised by the petitioners in Writ Petition No.7390 of 2010 and other connected Petitions. This Court vide order dated 13.4.2011 admitted the petitions and granted ad-interim order in the said petition by giving reasons. The counsel for the petitioners has submitted that since the issue involved in the present Petition being identical, similar order may kindly be passed, including grant of interim relief.

4. The learned Asstt. Govt. Pleader has submitted that the petition is directed against the show cause notice issued by the respondents under section 48(7) of the Maharashtra Land Revenue Code, 1966 and, therefore, it is open for the petitioners to file their reply to the show cause notice which would be considered by the authorities and, thereafter, would pass appropriate orders and if the petitioners are aggrieved by the same, it will be open for them to challenge the said order/s. At this stage, we have asked the learned Asstt. Govt. Pleader whether the issue involved and challenge raised in both these Petitions is identical or otherwise. However, the learned Asstt. Govt. Pleader is unable to throw any light on this aspect. In the instant case, the counsel for the petitioners has made a categorical statement that the issue involved and challenge raised in the

present Writ Petition and in Writ Petition No.7390 of 2010 is identical in nature and Writ Petition No.7390 of 2010 was already admitted by this Court and also granted interim relief. There is no reason for this Court to disbelieve the statement made by the learned counsel for the petitioners.

5. Hence, Rule.

Interim relief in terms of prayer clause (D).

To be heard along with Writ Petition No.7390 of 2010 and other connected Writ Petitions.

The learned Asstt. Govt. Pleader waives notice on behalf of the respondent nos.1 to 3.

(D. D. SINHA, J.)

(R.Y. GANOO, J.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.6702 OF 2011

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V/s.

The State of Maharashtra & Ors. : Respondents

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(D. D. SINHA, J.)

(R.Y. GANOO, J.)