

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (LODGING) NO. 3526 OF 2015**

MIG (Bandra) Realtors & Builders
Pvt. Ltd. & Anr.

...Petitioners

Versus
State of Maharashtra & Ors.

...Respondents

**WITH
CHAMBER SUMMONS (LODGING) NO. 40 OF 2016
IN
WRIT PETITION (LODGING) NO. 3526 OF 2015**

MIG (Bandra) Realtors & Builders
Pvt. Ltd. & Anr.

...Applicants

IN THE MATTER BETWEEN:

MIG (Bandra) Realtors & Builders
Pvt. Ltd. & Anr.

...Petitioners

Versus
State of Maharashtra & Ors.

...Respondents

Dr. Veerendra Tulzapurkar, Sr. Counsel with Ms. Soumya Srikrishna, Ms. Jasmine Sheth and Mr. Abir P. i/b Wadia Ghandy & Co. for the
Petitioners/Applicants

Mr. J. S. Saluja, A.G.P for the Respondent-State

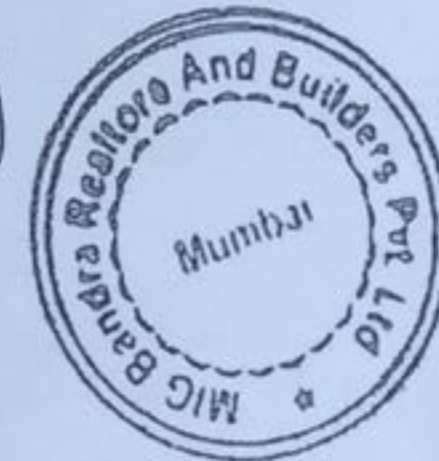
Mr. H. C. Pimple for the Respondent-BMC

Ms. Neha Bhide for the Respondent No. 3-MHADA

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For Shivan



change of use, or development of any land or building, which is vested in a local Authority. Ad-interim order therefore is granted in terms of (d1) and (d2).

4. To be tagged along with Writ Petition (Lodging) No. 2376 of 2015. Stand over to 9th March, 2016.

REVATI MOHITE DERE, J.

V. M. KANADE, J.

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For. Shrivastava



become dilapidated. It is submitted that therefore development charges cannot be levied on account of the exemption which is granted under Section 124-F of the Maharashtra Regional and Town Planning Act, 1966 ('MRTP Act'). The said provision reads as under :

"124-F. Exemptions:-

(1) No development charge shall, be levied on institution of use or of change of use, or development of, any land or building vested in or under the control or possession of the Central or State Government or of any local authority.

(2) Subject to such conditions as it may impose, the State Government may, by notification in the Official Gazette, exempt partially from the payment of development charge payable on the development of any land or building by any educational institution, medical institution or charitable institution.

1(3) Notwithstanding anything contained in sub-sections (1) and (2), the State Government may, by notification in the Official Gazette and subject to such terms and conditions as may be specified therein, exempt partially a Special Township Project undertaken by a private developer under the Special Development Control Regulations made under the provisions of this Act, from payment of the development charges.]"

3. Since the land is owned by MHADA, which is a local Authority, no development charges can be levied on the institution of use or

CORAM : V. M. KANADE &
REVATI MOHITE DERE, JJ.
WEDNESDAY, 10th FEBRUARY, 2016

P.C. :

1. Dr. Tulzapurkar, learned Senior Counsel appearing on behalf of the petitioners submits that a fresh demand notice was issued by the Corporation claiming development charges. It is submitted that therefore the petition has been amended. The petitioners have also challenged the said demand made by the Corporation. It is submitted that in a similar case, this Court has passed an order on 7th September, 2015 in Writ Petition (Lodging) No. 2376 of 2015. He invited our attention to the said order. In para 6 of the said order we have observed as under :

"6. In our view, prima facie, exemption under Section 124-F(1) is clearly applicable to the facts of the present case. It is not in dispute that MHADA is a local authority and, as such, Section 124-F is clearly applicable to this case. Prima facie case, therefore, is made out for grant of ad-interim relief. Hence, there shall be an ad-interim relief in terms of prayer clause (g)."

2. In the present case also admittedly the land is owned by MHADA and the said land is being developed since the structure has