

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SMW(C) No(s). 5/2024

IN RE: HERITAGE BUILDING OF THE BOMBAY HIGH COURT AND
ALLOTMENT OF ADDITIONAL LANDS FOR THE HIGH COURT

Date : 22-08-2024 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE J.B. PARDIWALA

For Petitioner(s)	By Courts Motion, AOR
For Respondent(s)	Mr. Tushar Mehta, Solicitor General
State of Maharashtra	Dr. Birendra Saraf, Adv.Gen. Mr. Siddharth Dharmadhikari, Adv. Mr. Aaditya Aniruddha Pande, AOR Mr. Bharat Bagla, Adv. Mr. Sourav Singh, Adv. Mr. Aditya Krishna, Adv. Ms. Preet S. Phanse, Adv. Mr. Adarsh Dubey, Adv.
High Court	Mr. Sandeep Sudhakar Deshmukh, AOR
Bombay Bar Ass.	Mr. Nitin G Thakker, Sr. Adv. Mr. Shyam Mehta, Sr. Adv. Mr. Mahesh Agarwal, Adv. Mr. Ankur Saigal, Adv. Ms. Madhavi Agrawal, Adv. Mr. E.C. Agrawala, AOR
AAWI	Mr. Prakash D. Naik, Adv. Ms. Prachi Tatke, Adv. Mr. Prashant Relekar, Adv. Mr. Yadunath Chaudhary, Adv. Mr. Aman Vachher, Adv. Mr. Suresh Sabrat, Adv. Mr. Nitin Gangal, Adv. Mr. Vikram N. Walawalkar, Adv.

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

- 1 We have heard Dr Birendra Saraf, Advocate General appearing on behalf of the State of Maharashtra, and Mr R N Joshi, Registrar General of the High Court of Judicature at Bombay. We have also heard Mr Prakash D Naik, counsel, with Ms Prachi Tatke, for the Advocates Association of Western India (AAWI) and Mr Nitin Thakker, senior counsel, with Mr Shyam Mehta for the Bombay Bar Association (BBA). Mr Tushar Mehta, Solicitor General, appears on behalf of the Union of India.

- 2 Dr Birendra Saraf has tendered a status report on the ongoing developments in the construction proposed for the High Court at Bandra Kurla complex and in regard to the alternative premises which have to be made available to the High Court. The status report is extracted below for convenience of reference:

- “(1) Handing over vacant possession of land earmarked for the High Court at Bandra-Kurla:

In a colour coded plan, the timeline for handing over possession of different portions of land have been set out. By 10 September, 2024, a contiguous area of 4.39 acres is to be handed over by the State Government. All steps are being taken to meet the said deadline.

- (2) Preparation of plans of new High Court building:

As decided in the meeting of the Hon’ble High Court Committee, the names of eight architects were submitted to the High Court Committee. A meeting was held with the architects on 31 July, 2024. On certain queries being raised by the architects about the fees to be paid for the preparation of the plans, the Hon’ble Committee of the High Court at a meeting held on 5 August 2024 has made a suggestion as regards the quantum of payment of fees to the architects and also the agencies which would carry out the various aspects of the scope of work.

A letter dated 13 August, 2024 has been addressed by

the Registrar High Court informing them of the Committee's views and requesting them to make a presentation within six weeks. A letter dated 13 August has also been addressed by the Registrar, High Court to the State Government requesting that an appropriate Government Resolution be issued based on the views of the Hon'ble High Court Committee.

(3) Structural audit of the existing High Court building:

The structural audit of the existing High Court building has been completed and the structural audit report has been forwarded to the High Court in two parts on 16 July, 2024 and 20 August, 2024.

As per the structural audit report, the existing High Court building and the connected buildings are structurally sound and in a stable condition. Minor repairs need to be carried out which shall enhance the service life of the buildings.

The estimates for carrying out the repair work as suggested by VJTI will now be prepared by the PWD.

(4) Making available space in the vicinity of the High Court for shifting departments of High Court:

(i) MTNL building (second and third floor)

The Leave and Licence agreement for the second and third floor of the MTNL building was already executed on 23 November, 2023. As per the agreement, the possession was to be handed over by 1 January, 2024, but the same was not handed over.

By a letter dated 22 June, 2024, MTNL has informed that structural repair work on the third floor has been completed and the work on the second floor is being carried out.

In the meanwhile, the estimates for civil works including civil work, electrical fittings and also for repair and supplying/fixing cabins, tables etc. have been prepared. The High Court has requested for administrative approval of these estimates and the same is being processed.

On 8 August, 2024, the Registry of High Court has forwarded the estimates for electrical works for administrative approval and sanction of funds and the same is being processed.

(ii) CTO annexe building

On 1 August, 2024, the Executive Engineer, BSNL forwarded handing over note of the premises on the ground floor and the first floor of the CTO Annexe building and the High Court has taken informal possession of the said space.

The Registry of the High Court had by a letter dated 1 August, 2024 moved the Government seeking sanction of licence fee @ Rs.438/- per sq.ft. instead of Rs.417/- per sq.ft. The necessary Government Resolution approving the same has been issued.

In the meanwhile, the PWD has prepared estimates for work to be carried out on the said premises. The estimates submitted by the PWD are being processed. The State Government granted administrative approval for the civil work.

(iii) Bank of India building (third floor)

The said premises were in the possession of MPSC and were to be handed over to the High Court. The records of MPSC lying at the said premises were to be removed by end of July, 2024 and the same have been removed. The State of Maharashtra has addressed a letter to Bank of India informing that MPSC has shifted its office and that as decided in the meetings held under the Chairmanship of the Hon'ble Chief Justice of Bombay High Court and the orders passed by this Hon'ble Court. The Bombay High Court has been permitted to occupy the said premises. The procedure for handing over possession of the premises to the High Court is under process."

3 During the course of the hearing, certain concerns have been highlighted on behalf of the High Court, AAWI and BBA. We have dealt with them below:

- (i) Mr R N Joshi, Registrar General of the High Court, has indicated that it would be necessary for the State Government to issue two separate GRs dealing with:

- (a) The handing over of the possession of the entire land at Bandra Kurla complex for the purposes of the High Court project; and
- (b) Declaring the project as a project of vital importance in order to ensure that the work continues unhindered even during the period of the Model Code of Conduct since elections to the Legislative Assembly are anticipated later this year; and
- (c) The fresh GR would have to be issued in regard to the bifurcation of the land.

Dr Birendra Saraf states that steps in regard to the declaration of the project as a project of vital importance have already been initiated and all pending issues will be sorted out.

The State Government shall take necessary steps to issue the GRs, as indicated above, for ensuring that the entire possession of the land would be handed over, as envisaged, within the time lines which have been placed on the record. The State Government shall positively do so by 7 September 2024;

- (ii) The GR in regard to facilitating payments for the project has yet to be issued. The Court is apprised by the Advocate General that the issuance of the GR is under process. The GR shall be issued by 7 September 2024;
- (iii) As regards possession of alternative premises for the High Court in the vicinity of the existing buildings, we issue the following directions:
 - (a) Possession shall be handed over to the High Court by 31 August 2024;

- (b) The State Government shall process all administrative sanctions which are required to be issued by 7 September 2024; and
 - (c) The Committee which has been constituted by the Chief Justice is requested to take stock of the situation so that the work of repair in the MTNL building (second and third floor), CTO annexe building and Bank of India building (third floor) commences at the earliest day and is completed expeditiously, preferably by 31 October 2024; and
 - (iv) Once possession is handed over of the alternative premises to the High Court, any further request by the High Court for sanctions of the estimates and for release of funds shall be taken up expeditiously by the State Government.
- 4 The Solicitor General has assured the Court that the matter pertaining to the handing over of the possession of the Bank of India premises will be taken up with the Chairperson of the Bank of India pursuant to the meeting which was held with the Committee so that necessary time lines, as indicated in this order, are observed.
- 5 List the proceedings on 25 September 2024.

(SANJAY KUMAR-I)
ADDITIONAL REGISTRAR

(POOJA SHARMA)
COURT MASTER