

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

**Original Application No.34/2023(WZ)
I.A. No.228/2023(WZ)**

Sandeep Prakash Parkar & Anr.

.....Applicant(s)

Versus

Member Secretary, SEIAA Evt. Dept. & Ors.

....Respondent(s)

Date of hearing: 31.01.2024

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Applicant	:	Mr. Aditya Pratap, Advocate
Respondent(s)	:	Mr. Aniruddha S. Kulkarni, Advocate for R-1/SEIAA Mr. Girish Utangale, Advocate for R-2/SRA Shri Pinaki Misra, Senior Advocate along-with Mr. Aditya Shiralkar, Advocate for R-5/PP Mr. Rohan Cama, Advocate for R-6/PP

ORDER

I.A. No.228/2023(WZ)

1. This application has been filed by the applicants with the prayer that the respondent No.6- Mssrs. Oberoi Realty Limited may be permitted to be deleted from the array of parties and in its place, Oberoi Constructions Ltd. should be permitted to be added.
2. For this, the learned counsel Mr. Aditya Pratap representing applicants has drawn our attention to the Joint Venture Agreement dated 23.09.2009, which has been entered into between M/s. Skylark Build, a partnership firm; M/s. Shree Vrunda Enterprises, a partnership firm; and M/s. Oberoi Constructions Pvt. Ltd.

3. Our attention is also drawn by the learned counsel for applicants to Annexure- A at page no.481 paper book, which is a map annexed to the Joint Venture Agreement, in which F.P. No.1078 is mentioned as a part of the property in question. Based on it, it is argued that M/s. Oberoi Constructions Pvt. Ltd. is a necessary party in this application and accordingly, its impleadment should be permitted.

4. From the side of respondent No.6-Mssrs. Oberoi Realty Ltd., which was earlier impleaded and was ordered to be deleted by us, learned counsel Mr. Rohan Cama has appeared, who has drawn our attention to our earlier order dated 05.09.2023, in which in para no.5, we have recorded that the name of respondent No.6 has been wrongly impleaded and hence direction was issued to delete the name of respondent No.6 from the array of parties with the liberty that in case the Oberoi Constructions Ltd. (party which is sought to be impleaded now) is found involved in making construction, pursuant to the EC granted in favour of Skylark Buildcon Pvt. Ltd., they may seek impleadment of the said Company by moving appropriate application with the said prayer. It is urged by the learned counsel for the one proposed to be impleaded as respondent No.6 that liberty was granted to the applicants to implead Oberoi Constructions Ltd., only if it was found involved in making the construction. He says that there is no evidence on record to show that Oberoi Constructions Ltd. was involved in making construction, pursuant to the EC granted.

5. The learned counsel for Oberoi Constructions Ltd. proposed to be impleaded as respondent No.6 has filed an affidavit-in-reply dated 31.01.2024 to the said I.A., wherewith Exhibit- 'A' has been annexed, which indicates that the said partnership firm had taken retirement as a Member w.e.f. 03.03.2023 of constituted Oasis Reality (a joint venture). This argument has been vehemently opposed by the learned counsel for

applicants saying that the EC was granted on 28.01.2016. But work of the construction of project had started much earlier to that i.e. soon after entering into the Joint Venture Agreement on 23.09.2009 between above-mentioned parties. We failed to understand as to why the 2nd partnership firm by the name M/s. Shree Vrunda Enterprises was not impleaded in the array of parties in the present application when name of that firm also finds mention in the Joint Venture Agreement. There was no reply to this query from the side of the learned counsel for applicants. It appears that he has chosen out of these three only two firms.

6. We are of the view that only the firm, in whose name the EC has been granted, can be held to be liable for any violations of the terms and conditions contained therein and for this, we went to the documents at page no.38 to 50 of the paper book, which is an Environmental Clearance (EC) dated 28.01.2016 granted in the name of the project Skylark Heights, which appears to be the name of the project and not the name of the Project Proponent. The respondent No.5, which is being represented today by the learned Senior Counsel Shri Pinaki Misra, has clearly admitted that entire construction is being done by the respondent No.5 and none-else and that the error in name of firm has been mentioned in the EC, which was issued by the SEIAA.

7. In view of above, we are of the view that there is no need for allowing the I.A. No.228/2023(WZ) in full, as we have already permitted for deletion of the respondent No.6- Mssrs. Oberoi Realty Ltd. from the array of the parties in the present application. We do not approve for impleadment of Oberoi Constructions Ltd. as respondent No.6 in the present application.

8. In view of above, we dispose of this application accordingly.

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9. From the side of respondent No.1/SEIAA-Maharashtra, learned counsel Mr. Aniruddha S. Kulkarni has appeared, who apprised us that he is a formal party, therefore, he does not want to file reply affidavit.

10. From the side of respondent No.2/The Chief Executive Officer, Slum Rehabilitation Authority, learned counsel Mr. Girish Utangale has appeared, who submits that he has not filed reply affidavit in this matter and he will seek instruction from the Department to file the same. We failed to understand as to why the learned counsel for respondent No.2 did not file the reply affidavit till now as the matter is being heard for the last so many dates. But by way of last opportunity, we grant two weeks' time to file the same with a direction that a copy of the same shall be served upon all other parties, who may file rejoinder affidavit against the same, if any, within two weeks thereafter.

11. From the side of applicants, rejoinder dated 30.01.2024 to the reply affidavit filed by the respondent No.5 has been filed and he has also filed another rejoinder affidavit dated 03.12.2023 against the reply affidavit filed by the respondent Nos.3 & 4.

Put up this matter for final hearing on 25.04.2024

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

January 31, 2024
Original Application No.34/2023(WZ)
I.A. No.228/2023(WZ)
P.Kr