

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION (LODGING) NO.21357 OF 2026

Arkade Developers Ltd.]
(Formerly, Arkade Developers Pvt. Ltd.)] .. Petitioner

Versus

1. The Municipal Corporation of Greater Mumbai]
2. The Municipal Commissioner,]
The Municipal Corporation of Greater Mumbai]
3. Chief Engineer (Development Plan),]
Brihanmumbai Municipal Corporation]
4. The Deputy Chief Engineer,]
Building Proposal (WS-I) “K/East” Ward,]
Brihanmumbai Municipal Corporation]
5. The Executive Engineer,]
Building Proposal (WS-I) “K/East” Ward,]
Brihanmumbai Municipal Corporation] .. Respondents

ALONG WITH

WRIT PETITION (LODGING) NO.22068 OF 2026

1. M/s. Atharv Infra LLP]
2. Mr. Sachin Gunjal (Partner of Petitioner No.1)] .. Petitioners

Versus

1. State of Maharashtra,]
Through Urban Development Department]
2. Mumbai Municipal Corporation]
3. The Municipal Commissioner,]
Brihanmumbai Municipal Corporation]
4. The Chief Engineer (Development Plan),]
Brihanmumbai Municipal Corporation]
5. The Deputy Chief Engineer,]
Building Proposal (WS-I) “K/East” Ward,]
Brihanmumbai Municipal Corporation]
6. The Executive Engineer,]
Building Proposal (WS-I) “K/East” Ward,]
Brihanmumbai Municipal Corporation]

7. Prachi Co-operative Housing Society Limited]
8. Arkade Developers Private Limited] .. Respondents

ALONG WITH
INTERIM APPLICATION (LODGING) NO.22830 OF 2026
IN
WRIT PETITION (LODGING) NO.21357 OF 2026

M/s. Atharv Infra LLP .. Applicant/Intervener

Mr. Pankaj Savant, Senior Advocate, with Mr. Nikhil Jayakar and Mr. Mayank Vira, i/by Ms. Smita Sawant, Advocates for the Petitioner in Writ Petition (Lodging) No.21357 of 2026 and for Respondent No.8 in Writ Petition (Lodging) No.22068 of 2026.

Mr. Girish Godbole, Senior Advocate, with Mr. Vikramjit Garewal, Mr. Samit Shukla, Mr. Siddharth Shah and Mr. Anuj Savla, Advocates, i/by Trilegal, for the Petitioners in Writ Petition (Lodging) No.22068 of 2026 and for the Applicant-Intervener in Interim Application (Lodging) No.22830 of 2026.

Smt. Nazia Sheikh, AGP for Respondent No.1-State of Maharashtra.

Ms. Smita Tondwalkar, Advocate for the Respondent-BMC in both the Writ Petitions.

Mr. Atul Damle, Senior Advocate, i/by Ms. Ranjana R. Parab, Advocate for Respondent No.7.

Mr. Sainath Jaguste, Sub-Engineer (Building Proposal), HWN, BMC is present in Court.

**CORAM : RAVINDRA V. GHUGE, ACJ. &
GAUTAM A. ANKHAD, J.**

DATE : 7TH JULY, 2026.

P.C. : { Per Gautam A. Ankhad, J. }

1. Both these Writ Petitions can be disposed of by this

common order as they concern the processing of an application for an Occupation Certificate for one developer and its impact on the ownership rights of another developer. The controversy before us is a narrow one. To avoid confusion, the parties are referred by their names.

2. The Petitioner in Writ Petition (Lodging) No.21357 of 2026, **Arkade Developers Ltd. ("Arkade Developers ")**, seeks a direction that Respondent No.1- MCGM processes its application for grant of an Occupation Certificate ("OC") in respect of Building No.1 comprising Wings 'A' to 'E' of the redevelopment project "Arkade Pearl". Mr. Pankaj Savant, learned senior advocate appearing for Arkade Developers submits that Prachi Co-operative Housing Society Limited entered into a Development Agreement dated 6th May, 2023 with Arkade Developers for redevelopment. Upon completion of the redevelopment, Arkade applied for an Occupation Certificate. Instead of identifying any specific deficiency, the online portal of MCGM merely reflects the generic remark "Reconcile and Re-submit", without indicating the statutory provisions allegedly violated, the documents required, or the deficiencies which need to be cured. This is pending since February 2026 and Arkade Developers' representations to MCGM has yielded no result.

3. The Petitioners in Writ Petition (Lodging) No.22068 of 2026, **M/s. Atharv Infra LLP (“Atharv Infra”)** are owners of the adjoining land marked as “Sub-Plot B” on Layout Plan dated 19th April, 2024 annexed at page 54 of Atharv's Petition. Atharv Infra opposes the grant of the OC of Arkade Pearl on the ground that the reservation under the heading ‘Amenity Open Space’, which ought to be on Arkade Developer's portion or on Society’s land, has instead been imposed upon its property. The disputed Amenity Open Space is shown in the shaded portion situated above Sub-Plot 'C' on the left side of the said layout plan.

4. Mr. Girish Godbole, learned senior advocate appearing for Atharv Infra submits that Atharv Infra has challenged the development permissions granted in favour of Prachi Co-operative Housing Society Limited and Arkade Developers by filing an Appeal under Section 47 of the Maharashtra Regional and Town Planning Act, 1966 before the Hon'ble Minister (Urban Development Department) on 7th August, 2025. During the pendency of the appeal, Arkade Developers applied for an Occupation Certificate on 6th February, 2026. On 10th February, 2026, when the appeal came up, the Additional Chief Secretary directed MCGM not to issue any further development-related permissions in

respect of the project until the dispute concerning the layout condition was decided or resolved.

5. Mr. Godbole submits that both these issues can appropriately be examined by the Chief Engineer (Development Plan), MCGM who may consider the approved layout, the rival contentions of the parties and determine whether the Amenity Open Space can be imposed on Sub-Plot-B when the benefit of the said amenity is taken by Arkade Developers/Society.

6. Ms. Smita Tondwalkar, learned counsel appearing for MCGM, on instructions, submits that the application for Occupation Certificate has not been processed due to the oral directions issued by the Additional Chief Secretary on 10th February, 2026 restraining MCGM from processing Arkade Developers's application for OC.

7. Having considered the submissions, we are of the view that both the issues can be considered by the Chief Engineer (Development Plan), MCGM. The Municipal Corporation is under a statutory obligation to process applications placed before it in accordance with

law. If the application for OC suffers from any deficiency or non-compliance, the MCGM must specifically communicate the same to the developer. An application for OC cannot be kept in abeyance indefinitely on the basis of vague portal remarks or for extraneous reasons as this adversely affects the larger number of flat Purchasers. Similarly, the dispute raised by Atharv Infra regarding the alleged wrongful imposition of the Amenity Open Space on its land is one which directly concerns the layout approval and is capable of being examined by the planning authority.

8. Accordingly, the following directions are passed with the consent of all the parties before us:

- (i) Chief Engineer (Development Plan) of MCGM is directed to issue notice to all stakeholders and hear them in an attempt to resolve the matters.
- (ii) Both parties may produce all documents upon which they seek to rely within a period of two weeks from today.
- (iii) The Chief Engineer shall pass a reasoned order determining the objection of Atharva Infra on the location of the Amenity Open Space and whether the

amended layout of Arkade Developers violates the applicable planning law and its ownership rights. Similarly Arkade Developer shall be informed of every deficiency or statutory non-compliance in its application for OC. If the deficiencies are cured and documents as demanded are furnished, MCGM shall process and grant the OC.

(iv) Both these issues shall be decided within 6 weeks of this Order.

9. We clarify that we have not expressed any opinion on the merits of the rival claims and all rights and contentions of all stakeholders are left open for determination by the competent authority. Writ Petition (L) No.21357 of 2026 and Writ Petition (L) No.22068 of 2026 stand disposed of in the above terms. Interim Application (L) No.22830 of 2026 also stands disposed of.

10. We are constrained to record our strong displeasure regarding the stand taken by the MCGM that it refrained from processing Arkade Developers' application on the basis of oral directions allegedly

issued by the Additional Chief Secretary. Government authorities exercising statutory powers are required to act strictly in accordance with law. If indeed such oral instructions were issued, the same is illegal and are inconsistent with the principles of transparency, accountability and the rule of law. A copy of this order shall, therefore, be forwarded to the Chief Secretary and the concerned Additional Chief Secretary of the State Government for taking necessary steps and for passing appropriate directions.

[GAUTAM A. ANKHAD, J.]

[ACTING CHIEF JUSTICE]

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