

# HC paves the way for Chandan Cinema's redevpt with 15m height

Swati.Deshpande  
@timesgroup.com

**Mumbai:** The iconic Chandan Cinema which came up in 1973 at Juhu and remained a favourite haunt of several acting legends before its shutters were downed, can now be reincarnated in a new avatar following an October 11 Bombay high court judgment.

The HC bench of Justices SB Shukre and F P Pooniwalla held that a 1976 notification issued under the Works of Defence Act, 1903, does not prohibit its owner from reconstructing to a height of 15 metres, keeping rest of the dimensions same as what existed earlier.

The bench held, "If there is a permanent construction

## '1976 DEFENCE NOTIFICATION DOESN'T PREVENT RECONSTRUCTION BY OWNER'

### CASE IN COURT

**March 23, 2017** | BMC issues a notice to Chandan Cinema owners stating the structure is ruinous and likely to fall

> BMC calls for its repair or demolition within 30 days

> Land owner Sameer Joshi (50) prepares a plan to rebuild it with a basement and 11 upper floors with 50m+ height

**March 30, 2018** | Owner seeks Airport Authority of India clearance for it; stops film screenings



**May 20, 2018** | AAI issues its NOC with certain conditions

**Feb 28, 2019** | Joshi seeks BMC nod

> Joshi's licensed surveyor

advises him that a clearance is needed from the station commander, HQ, Maharashtra, Gujarat and Goa, under 1976 defence ministry notification

as there was a signal transmitting station in the vicinity

**Nov 26, 2019** | BMC asks the station commander to consider the cinema redevelopment proposal

**Feb 26, 2020** | BMC asks Joshi to get defence NOC at earliest for building plans to go forward

**Oct 9, 2020** | With no nod forthcoming, Joshi petitions HC challenging restrictions under notification and constitutional validity of several provisions of Works of Defence Act, 1903

ight control, the new redeveloped structure can have a permissible height of 15.24 metres or less.

The HC refused a plea made by the additional solicitor general Devang Vyas for the defence ministry to stay its order to enable an appeal.

Sameer Joshi (50), the land owner, had petitioned the HC in 2021. Through senior counsel Milind Sathé who represented him, he sought permission to construct, saying the notification and height restrictions it places would not apply to its plans.

Sathé and Wadia Ghandhy representing the owner said the notification exempted structures which existed prior to June 19, 1976 and were

taller—beyond 15 metres, hence its restriction would not apply to the Cinema.

The original cinema had a height of 16.9 metres. The completion certificate for the cinema was dated December 1, 1973.

The ASG said the notification would apply to the construction that existed on the plot enabling the structure to be maintained, but with a prior written approval of the commanding officer. The ASG said the proviso "does not envisage nor permit the demolition and reconstruction or redevelopment or construction of a new structure". He submitted that such a new construction would necessarily require excavation below the surface and erection

on the surface, both of which activities are absolutely prohibited".

The HC said, "The question that arises for our consideration is whether such a permanent construction, which has already been completed at the commencement of the said notification, can be redeveloped. In our view, since the purpose of the said notification is to protect already existing permanent constructions, in keeping with this purpose, if such an already existing permanent construction has to be redeveloped, then the said notification does not bar any such redevelopment" and held any other view would be contrary to the purpose of the notification.

already completed at the commencement of the notification,

then redevelopment of the permanent construction

is not barred by the notification." The HC, though, said

keeping in mind the aim of the notification to ensure he-