

HC permits redevelopment of Chandan Cinema in Juhu

HT Correspondent

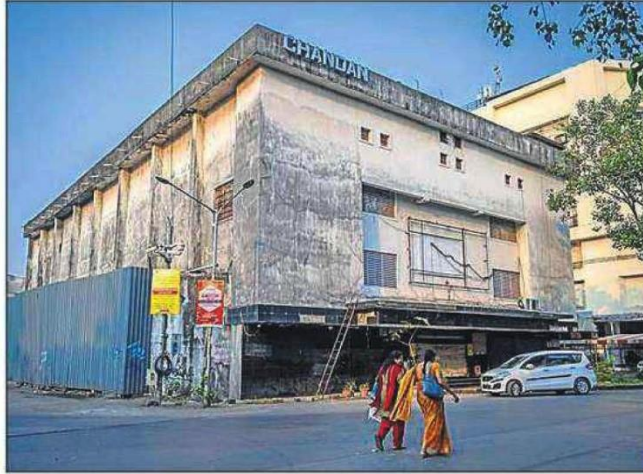
htmbai@hindustantimes.com

MUMBAI: The Bombay high court on Wednesday allowed redevelopment of Chandan Cinema in Juhu, stating that the Works of Defence Act, 1903, allows redevelopment of permanent structures completed before June 19, 1976, when the ministry of defence issued a notification imposing restrictions on land around Juhu wireless transmission station.

"If there is a permanent construction already completed at the commencement of the said notification, then redevelopment of the said permanent construction is not barred," a division bench of justice Sunil Shukre and justice Firdosh Pooniwala said while hearing a petition filed by the owner of Chandan Cinema, Sameer Joshi.

The bench, however, clarified that the height of the redeveloped structure would be limited to 15.24 metres, as stipulated in the notification.

The cinema hall, which spreads over around 3,628 square metres in Juhu Vile Parle Development layout, was constructed in 1973 and it has a height of around 17 metres. According to the petitioner, the



The cinema hall was constructed in 1973.

SATISH BATE/HT PHOTO

Brihanmumbai Municipal Corporation (BMC) had in March 2017 issued him a notice asking him to pull down the structure, as it was in a dangerous condition.

Joshi decided to redevelop the property by constructing a ground-plus-11-storey structure with a height of over 50 metres. In 2019, when he was about to apply to BMC for approval, he was told that he would require a no objection certificate from defence authorities, as the property was in the vicinity of the transmission station, the plea

said. The administrative commandant for Maharashtra, Gujarat and Goa area rejected his application on August 16, 2019, on grounds that the proposal violated provisions of the notification issued under the WoD Act on June 19, 1976. The cinema owner then changed his plan and proposed to redevelop his property by restricting the height to 15.24 metres, permissible under a proviso in the notification, Joshi said in the petition.

After defence authorities did not respond to his revised proposal he approached the high

court in 2021. Joshi said in his plea that the notification allowed permanent constructions up to a height of 15.24 metres and redevelopment of those structures completed before issuance of the notification.

The advocate appearing for the defence authorities, however, claimed that the redevelopment was not permissible under the proviso, as it only tolerated the already completed permanent constructions within 500 yards (457.20 metres) of the compound wall of the military installation.

The bench rejected the stand taken by the defence authorities and said that the purpose of inserting the proviso was to protect the existing permanent constructions and therefore "the first proviso did not bar redevelopment of the existing permanent constructions". The bench further said that the Central government had issued the notification under section 7 of the WoD Act, which conferred on it the discretion to decide which restrictions contained in its subsections would apply to the land in the vicinity of the military establishments and make an exception in case of the already completed constructions.