

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

WRIT PETITION NO.1936 OF 2014

Manish Ramniklal Sawla

.. Petitioner

Vs

The State of Maharashtra & Ors.

.. Respondents

...

Mr. K. R. Tiwari a/w Ms. Poonam K. Tiwari for the Petitioner.

Mr. Milind More, Addl. G.P. for the Respondent No.1.

Ms. Pallavi Thakar for the Respondent No.2.

Mr. Jagdish G. Reddy for the Respondent No. 3.

Mr. Vijaykumar Bindra Prasad Kanoria for the Respondent No. 6.

Mr. Madhusudan G. Gawde for the Respondent No. 8.

Mr. Satish Kamat for Respondent No. 9.

**CORAM** : A. S. OKA &

**SMT. VIBHA KANKANWADI, JJ.**

**DATE** : 11/07/2017.

**RC. :**

1] Heard the learned counsel appearing for the Petitioner, the learned Addl. G.P. for the 1<sup>st</sup> Respondent, the learned counsel appearing for the 2<sup>nd</sup> Respondent and the learned counsel appearing for the 3<sup>rd</sup> Respondent . We have also heard the learned counsel appearing for the 6<sup>th</sup> and 8<sup>th</sup> Respondents. Rule. Rule on interim relief is made returnable on 18<sup>th</sup> August 2017.

2] Our attention is invited to the condition No. 16 in LOI dated 23<sup>rd</sup> March 2001 granted to the 6<sup>th</sup> to 8<sup>th</sup> Respondents. The condition No. 16 reads thus:-

16. That you shall get DP Road/set back admeasuring 145.14 sq.mts and reservation Recreation Ground admeasuring 461.21 sq.mts (26.82%) demarcated from A.E. (Survey) / D.P. /T&C department of

*M.C.G.M. And handed over to M.C.G.M. Free of cost, free of encumbrances by changing ownership in the name of M.C.G.M. duly developed as per municipal specification and certificate to that effect shall be obtained and submitted.*

3] In terms of direction issued by this Court, Shri Hanumant A. Masal, has filed an affidavit on behalf of the Slum Rehabilitation Authority (for short "the SRA". In paragraph 5 of the said affidavit he has stated thus:-

5. *I say that as per the directions of this Hon'ble Court vide order dated 5.6.2017; I personally visited the subject property on 03.07.2017 along with my other staff members. I say that the total area reserved on the subject property for RG plot is admeasuring 461.21 sq.meters and an old temple is found in the said RG plot, on which open shed is constructed and an area of open shed is approx. 90.00 sq.mtrs. I say that even it is found that the said shed is constructed in the year 2012-13 by MHADA though MLA fund of Hon'ble MLA Mr. Suresh Shetty and the remaining portion of the RG plot is free from any encroachment.*

4] Paragraph 5 shows that there is an old temple on the RG plot and open shed admeasuring 90.00 sq. meters has been constructed in the 2012-13 by the Maharashtra Housing and Area Development Authority (MHADA) by using funds of a member of the Legislative Assembly. It is an admitted position that the SRA is the Planning Authority for the said area and the SRA has not granted permission to construct the said open shed. If according to SRA, MAHDA has unauthorizedly constructed the shed, SRA will have to take steps for demolition of the said shed.

5] Prima facie, it appears to us that the 6<sup>th</sup> and 8<sup>th</sup> Respondents have acted upon letter of intent dated 23<sup>rd</sup> March 2001 without making any grievance about the condition No. 16. Therefore, they are bound by the condition No. 16. As an assurance has been given by the SRA to initiate action on account of breach of condition No. 16, today, we are not granting any ad interim relief in this behalf.

6] We direct the 4<sup>th</sup> Respondent to file an affidavit setting out whether the shed Admeasuring 90.00 sq. meters on RG plot admeasuring 461.21 sq. meters was constructed by MAHADA by using the funds of a MLA. The affidavit to state whether a permission of the Planing Authority was obtained before constructing the shed. The Advocate for the Petitioner to serve an authenticated copy of this order to the 4<sup>th</sup> Respondent. If Affidavit is not filed in terms of this order on or before 14<sup>th</sup> August, 2017 this Court is free to draw appropriate inference.

7] We direct the 3<sup>rd</sup> Respondent to file a detailed affidavit setting out steps taken against 6<sup>th</sup> and 8<sup>th</sup> Respondents on the basis of the breach of the condition No. 16 of LOI.

(SMT. VIBHA KANKANWADI, J.)

(A. S. OKA, J.)

TRUE COPY

*[Signature]*  
18-7-17  
Section Officer  
High Court, Appellate Side  
Bombay