

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

WRIT PETITION NO. 8653 OF 2014

Girdhari s/o Kimatrai Nehlani

.. PETITIONER

VERSUS

City and Industrial Development
Corporation of Maharashtra

.. RESPONDENT

Mr. A.A. Mukhedkar, advocate for petitioner.

Mr. A. S. Bajaj, advocate for respondent.

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**CORAM : R.M. BORDE &
P.R. BORA, JJ.**

DATE : 26th FEBRUARY, 2015.

PER COURT :

1. Petitioner is praying for issuance of direction to respondent - CIDCO authorities to grant no objection certificate in favour of petitioner for raising construction over plot no. 110, situate at N-3 CIDCO, Aurangabad admeasuring 280 sq. mtrs, as per the rules and regulations framed by CIDCO authorities. Petitioner is also praying for grant of regularisation of allotment of the plot made in his favour.

2. It is not a matter of dispute that petitioner tendered application to respondent for allotment of residential plot on lease basis and the application was considered favourably and he was allotted plot in the year 1984. Agreement of lease came to be executed in the year 1984. Petitioner tendered application seeking construction permission and, in pursuance to the permission accorded, petitioner raised construction over the plot upto plinth level. On account of certain difficulties faced by him and for the reason that he was posted during his service career out of Aurangabad,

petitioner could not raise construction. Respondent, in pursuance to the directions issued in public interest litigation presented before this Court, took a decision to take over plot and cancel the allotment. Petitioner contends that he was not aware of the developments occurred during the intervening period. He approached respondent in the year 2006 for revised permission. However, the application was not considered in view of pendency of writ petition. It however transpires that the affairs of CIDCO administration were handed over to the Municipal Corporation in the year 2006 and as such, petitioner is required to secure appropriate permission for raising construction from Municipal Corporation authorities. The Corporation authorities are insisting for furnishing no objection from respondent. As has been stated above and in view of policy decision taken by respondent in pursuance to certain directions issued in public interest litigation, there is impediment in securing no objection from respondent.

3. Petitioner contends that delay has occurred in taking steps in the matter because of health hazards suffered by him as well as for the reason that he was required to stay outside Aurangabad since he was posted at different places. Learned counsel for respondent submits that case of petitioner would be governed by the order passed earlier by this Court while disposing of Civil Application No. 2565/2004 and, directions issued by this Court while disposing of Civil Application No. 11610/2010 shall have no applicability.

4. There appears to be delay on the part of petitioner in approaching

respondent. However, the fact remains that none of the family members of petitioner have been allotted any other plot in CIDCO area nor petitioner intends to make profit out of allotment of plot made in his favour by respondent long back. Petitioner needs the plot for residence. Considering the facts and circumstances of the case and for the reasons recorded while disposing of Writ Petition No. 6859/2013, we deem it appropriate to consider the request made by petitioner. Petitioner shall have to pay additional lease premium in accordance with the regulations framed by respondent and the petitioner undertakes to deposit the amount with respondent within the time stipulated. Petitioner shall approach respondent and deposit additional lease premium as determined in accordance with the rules, as expeditiously as possible, preferably within a period of four weeks from today. Respondent on deposit of lease premium by petitioner shall issue no objection in his favour which shall have to be submitted to the Municipal Corporation. Petitioner shall further deposit Rs.1,00,000/- with respondent towards penalty on account of lapses committed by him in raising construction over the plot allotted in his favour. Additional amount of Rs. 1,00,000/- as directed above shall also be deposited with respondent within a period of four weeks from today. Petitioner undertakes to raise construction over the plot within a period of 18 months from the date of issuance of permission by the Municipal Corporation. With the directions as above, writ petition stands disposed of.

(P. R. BORA)
JUDGE

dyb

(R. M. BORDE)
JUDGE