

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10895 OF 2015

SHIVA SIDDESHWAR PAWAN MAHADEV PRATISTHAN THROUGH ITS
AUTHORIZED MEMBER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Ms. Pradnya S. Talekar h/f Mr. Talekar S. B. and
Mr. Awate U. R.

AGP for Respondent Nos. 1 and 2: Mr. V.M. Kagne
Advocate for Respondent No.3 : Mr. S.S. Dande

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**CORAM : A. V. NIRGUDE AND
V. K. JADHAV, JJ.**

DATED : 29th OCTOBER, 2015

P.C. :-

1. We are dismissing this petition at admission stage, for the reasons which are mentioned as under :

2. The petitioner is a public trust registered in the year 2010, in respect of temple, which is admittedly situated in MIDC area on land belonging to MIDC and for which, no construction permission was given at any time. The issue of unauthorized temples and other places of worship came before the Supreme Court and by way of interim orders, the Supreme Court directed all the concerned to demolish all such places of worship, which are constructed unauthorizedly and on public places. This order was delivered by the

Supreme Court on 29th September, 2009. Pursuant to this direction, the State of Maharashtra passed a resolution which is published in official gazette on 5th May, 2011. The State of Maharashtra decided to conduct survey for locating the worship places, unauthorizedly constructed on public premises. The State of Maharashtra also directed that the places of worship, which are constructed after 29th September, 2009, would be summarily demolished. The State further directed that the structures which are similarly situated, but which are constructed prior to 29th September 2009, would be examined and categorized in category A, B and C. To put it in short, the State of Maharashtra accepted the possibility that some unauthorized structures standing on public places might have public following and public recognition and in such cases, the structure would either be regularized or would be transferred to some other place.

3. The learned counsel for the petitioner pointed out that if the criteria of examining public following and public recognition is accepted by the State of Maharashtra, they cannot divide the structures on the basis of date of construction. The argument is quite attractive but we are not inclined to show any indulgence to the petitioner. The petitioner is also trying to suggest that the structure in question is in existence much prior to 29th September, 2009.

4. As per our direction which was issued yesterday, today the respondent - MIDC has placed on record the prima facie evidence to indicate that the structure in question was not in existence prior to 29th September, 2009. On perusal of these documents, we are convinced that the structure came in existence after 29th September, 2009 and hence, we do not intend to protect it. Nonetheless, we would direct respondents to examine the case of the petitioner as to whether the temple has attained the public following, public recognition etc. and whether the petitioner can be given alternate piece of land for construction of new temple as per the prevailing policy of the Government.

(V. K. JADHAV, J.)

(A. V. NIRGUDE, J.)

rlj/