

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2596 of 2014

Tukojirao Krushnajirao Pawar. .. Petitioner
Vs
Assistant Director of Town Planning & Ors. .. Respondents

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Shri R.M. Haridas i/by Shri Tushar N. Sonawane for the Petitioner.
Shri Suresh M. Kamble for Respondent Nos.1 and 2.

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CORAM : A.S. OKA &
REVATI MOHITE DERE, JJ
DATED : 18TH JUNE 2015

P.C.

. The challenge in this Petition under Article 226 of the Constitution of India is to the order dated 16th January 2014 passed by the Commissioner of Kolhapur Municipal Corporation. The order holds that though the building “Shalini Cinetone” has been removed from the list of Heritage Structures, in the sanctioned Development Plan, the reservation of the plot in question for “Shalini Studio” continues. The impugned order, therefore, records that unless a modification is made to the sanctioned Development Plan by taking recourse to Section 37 of the Maharashtra Regional and Town Planning Act, 1966 (for short “the MRTP Act”), the proposal submitted by the Petitioner cannot be considered.

2. The submission of the learned counsel appearing for the Petitioner is that admittedly the building “Shalini Cinetone” has been

removed from the category of “Heritage Structures”, and therefore, the stand taken that there is a reservation cannot be taken into consideration. He submits that the Petitioner intends to develop the property in accordance with the Regulation No.59 of the Development Control Regulations.

3. There is no material on record to controvert the conclusion recorded in the impugned order that the reservation in the sanctioned Development Plan continues.

4. Therefore, this Petition under Article 226 of the Constitution of India cannot be entertained. If the contention of the Petitioner is that there is no such existing reservation in the sanctioned Development Plan, it is for the Petitioner to make an appropriate representation to the Municipal Corporation alongwith necessary documents. If the reservation continues, remedy of the Petitioner is to apply either to the Municipal Corporation or to the State Government for initiating proceedings under Section 37 of the MRTP Act.

5. Subject to what is observed above, the Petition is rejected.

(REVATI MOHITE DERE, J)

(A.S. OKA, J)