

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION
WRIT PETITION NO. 1648 OF 2014
(*Vitthal Shivanna Koli & anr. Vs. State of Maharashtra & ors.*)

Office Notes, Office
Memoranda of appearances,
Court's orders or directions &
Registrar's orders.

Court's or Judge's orders

Mr. I.M. Vohra i/by Mr. Vinod U.Shinde Advocate for the petitioners.
Mr. P.P. Kakade, A.G.P. for respondent 1.
Mr. N.R. Bubna Advocate for respondent no. 2.
Mr. Narayanan i/by Narayanan & Narayanan for Res. 3(E).
Mr. Dushyant S. Pagare for Res. 3B to 3D, 3F, 3H & 3I.

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**CORAM : NARESH H. PATIL AND
S.B. SHUKRE, JJ.**

DATED : 10th June 2015.

P.C. :

The petitioners challenge the tender process issued by the respondent no.2/Municipal Council, Panvel, in respect of their shopping complex at Panvel. The tender was floated on 31.1.2014. After re-opening of the tender, a decision was taken to allow the tender to successful bidders and the price was settled between Rs.10,000/- and Rs.20,000/- per sq. ft. The Municipal Council forwarded a proposal to the State Government seeking sanction for executing the lease-deed in favour of the successful bidders for a period of 30 years.

2. Learned counsel for the Municipal Council and other respondents state that the said proposal is still pending before the State Government for consideration.

3. Counsel for the petitioners has raised two issues, one concerning the upset price, and secondly, the power of the Municipal Council to lease out the municipal property for more than nine years, as prescribed under the Municipal Council Act.

4. It is submitted by learned counsel for Municipal Council that the petitioners did not participate in the tender process, considering the upset price which was beyond their capacity. Being a municipal property, the counsel submits, the upset price should have been lower so that common people could participate in the tender process. The upset price, being on higher side, has deprived many small shop owners and weaker sections from participating in the tender process.

5. Learned counsel for the Municipal Council places reliance on the affidavit-in-reply. It is submitted that the entire process of tender has been monitored by a Committee. The tender process is conducted in a fair and transparent manner. The Municipal Council has received bids more than the upset price which would ultimately benefit the revenue of the Municipal Council. The action of the Municipal Council cannot be termed as against law and interest of public at large. The learned counsel further submits that though the successful bidders deposited the requisite amount with the Municipal Council, possession has not been handed over as the proposal is pending with

the State Government. This statement is accepted by the learned counsel for the successful bidders.

6. We have perused the record. In the facts and circumstances, the submission advanced that the Municipal Council ought to have settled the upset price at a lower rate is not convincing. The upset price is settled between Rs.10,000/- and Rs.20,000/- per sq. ft. in respect of the shopping complex constructed by the Municipal Council. The Municipal Council has received bids higher than the upset price.

7. In respect of tenure of lease of shopping complex, learned counsel for the Municipal Council submits that the shops are to be leased out for 30 years duration and the Municipal Council has not taken any decision to execute the lease-deed as the issue is pending with the State Government. In view of these facts and in exercise of extra-ordinary writ jurisdiction, we are not inclined to entertain the petition. Disposed of.

8. Since the issue in question is pending with the State Government, we direct the State Government to take appropriate decision on the said proposal as expeditiously as possible, preferably within three months.

(S.B. SHUKRE, J.)

(NARESH H. PATIL, J.)

Tanvir Ahmed
P.S.