

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.1890 OF 2015

M/s. Shree Tirupati Greenfield Developers and others .. Petitioners

Versus

M/s. Takshashila-Nalanda Co-op. Hsg. Soc. Ltd.
and others .. Respondents

Ms. K. H. Rajani i/by Mr. Sumedh R. Kale, for the Petitioners.
Mr. S. M. Oak i/by Mr. Sagar Anant Joshi, for the Respondent No.1.
Mr. N. R. Bubna, for the Respondent No.3.

**CORAM : A.S. OKA & G.S. PATEL, JJ
DATED : 19TH NOVEMBER 2015**

PC.

1. Heard Learned Counsel appearing for the Petitioners, the learned Counsel appearing for the 1st Respondent and the learned Counsel appearing for the 3rd Respondent.

2. The Petitioners are aggrieved by a stop work notice dated 14th November 2014 issued by the 3rd Respondent Municipal Corporation. The stop work notice records that the Petitioners have prima-facie committed a breach of the order of the Civil Court dated 2nd January 2013 passed in Regular Civil Suit No.1562 of 2012 filed by the 1st Respondent. The Petitioners have been directed to stop construction on the land in question commenced on the basis of permission granted

vide VP No.2001/90.

3. As of today, the order of injunction passed by the Trial Court on 2nd January 2013 is operative. Therefore, there is nothing wrong, if the Municipal Corporation wants to ascertain whether the Petitioners are carrying on construction in breach of the said order.

4. However, a stop work notice cannot continue to operate for inordinately long time. Hence, Municipal Corporation will have to pass the appropriate order after hearing the parties.

5. Accordingly, we dispose of the Petition by passing the following directions :-

I) We direct the Petitioners and the 1st Respondent to appear before the Assistant Director of Town Planning of the 3rd Respondent Municipal Corporation on 10th December 2015 at 11.00 a.m. It will be open for the Petitioners as well as the 1st Respondent to file a reply along with necessary documents;

II) After giving an opportunity of being heard to all concerned parties, the Assistant Director of Town Planning of the 3rd Respondent Municipal Corporation shall decide whether any construction is being carried out by the Petitioners contrary to the order of the Civil Court;

III) Appropriate order shall be passed by the

Assistant Director of Town Planning of the 3rd Respondent Municipal Corporation as expeditiously as possible and preferably on or before 15th January 2016;

IV) Needless to state that the Assistant Director of Town Planning of the 3rd Respondent Municipal Corporation will have to ascertain whether the construction carried out by the Petitioners is in accordance with law and is in terms of the permission granted;

V) A copy of the order passed by the Assistant Director of Town Planning of the 3rd Respondent Municipal Corporation shall be served to the parties;

VI) It is obvious that the stop work notice issued to the Petitioners will continue to operate till appropriate order is passed by the Assistant Director of Town Planning of the 3rd Respondent Municipal Corporation on the basis of this order.

VII) All contentions on merits are kept open;

VIII) The Writ Petition is disposed of in above terms.

(G.S. PATEL, J)

(A.S. OKA, J)