

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

WRIT PETITION NO.6966 OF 2012

1. Shri Khadeshwar Shiv Rameshwar Devsthan
Charitable Trust & Ors.

...Petitioners.

V/s.

1. The Manager (RHB) & Ors.

...Respondents.

Mr. Ashok B. Tajane for petitioners.

Mr. Suresh S. Pakale with Mr. Saurabh Pakale i/b Mr. Avinash Ram Belge
for the respondent no.7.

Mr. Kamlesh Ghamre for the respondent Nos.1 to 4.

Mr. V. P. Malvankar, AGP for the respondent Nos.5 and 6.

**CORAM : A.S.OKA &
V.L. ACHLIYA,JJ.**

DATE : 8th SEPTEMBER, 2015

PC.:

. Heard the learned counsel representing the parties.

2. A very limited relief is sought in this Writ Petition. The petitioners are relying upon the Board Resolution No.10136 passed by the Board of Directors of the City and Industrial Development Corporation of Maharashtra Limited (for short "the CIDCO") on 14/7/2009. The petitioners are also relying upon the letter dated 1/1/2010 addressed by the Manager (RHB) of the CIDCO to the Chief Trustee of the petitioner Trust. The letter reads thus:

"Please note that our Board vide B.R. No.10136 dated 14th July 2009 has approved the proposal for Regularisation of Shree Khandeshwar Shiv Rameshwar Mandir and allotment of land under it i.e. plot admeasuring 1190.05

sq. mtrs. in Sector-2, to At Motha Khanda, Tal. Panvel, Dist. Raigad to your trust. Letter of allotment will be issued after we receive the approval from Government of Maharashtra.”

3. The first relief sought in this Writ Petition under Article 226 of the Constitution of India is for directing the 1st and the 2nd respondent (CIDCO) to forward a proposal on the basis of the letter dated 1/1/2010 for approval to the State Government. The second prayer is for directing the State Government to take appropriate decision on the said proposal.

4. By judgment and order dated 6/12/2012, the Writ Petition No.6966 of 2012 was disposed of. The order of this Court was subjected to a challenge by the petitioners by filing Civil Appeal No.4283/2014. By judgment and order dated 31/3/2014, the Apex Court passed an order of remand. The relevant part of the said order reads thus:

“Having heard Mr. Vinay Navare, learned counsel for the appellant, Mr. A.S. Bhasme, learned counsel for Respondent Nos.1 to 4 and Mr. Suresh S. Pakale, learned counsel for respondent No.7, we think that it is appropriate that the High Court should deal with the limited prayer and may consider as to whether such a limited prayer should be granted or not after giving full opportunity of hearing to CIDCO and, accordingly, we set aside the impugned order and remit the matter to the High Court. Needless to say, we have not expressed any opinion on any of the aspect.

The High Court is requested to dispose of the writ petition within a period of six months.

In the result, the appeal is disposed of in above terms.”

5. Today, the learned counsel for the CIDCO has tendered on record a communication dated 21/8/2015 forwarded to him by the CIDCO. The said communication is marked as 'X' for identification. On the basis of the said communication, the learned counsel appearing for the CIDCO on instructions states that the proposal for cancellation of earlier Board Resolution No.10136 dated 14/7/2009 will be placed before the immediate next meeting of the Board of Directors of the CIDCO. We accept the said statement.

6. In view of the above statement, it appears to us that the CIDCO wants to reconsider the earlier resolution, which is the subject matter of communication dated 1/1/2010. So long as a decision is not taken by the Board of Directors on the proposal to reconsider the earlier resolution, it will not be appropriate for the Writ Court at this stage to issue a writ of mandamus directing the CIDCO to submit a proposal to the State Government on the basis of the said resolution.

7. Considering the facts of the case, an appropriate decision will have to be taken by the Board of Directors of the CIDCO as expeditiously as possible and, in any event, within 3 months from today. The decision taken by the CIDCO will have to be communicated to the parties to the petition. If the Board of Directors decides to revoke or to modify the

earlier Resolution, the petitioners will have to adopt appropriate remedy. If the Board of Directors decides not to revoke or modify the earlier resolution and if after the said decision, the CIDCO neglects to forward the proposal to State Government, the petitioners can always seek appropriate relief.

8. The learned Counsel appearing for the petitioners tried to submit that this order is completely contrary to the order of the Apex Court.

9. It is very clear from the order of the Apex Court that whether a limited prayer made by the petitioners should be granted or not is left to this Court with a rider that the CIDCO should be given an opportunity of being heard. Now that the CIDCO wants to reconsider the resolution. In view of the proposal to reconsider the Resolution which was moved after the order of the Apex Court, at this stage, the limited relief sought in the said petition cannot be granted. Hence, the following order:

ORDER

- i) We accept the statement made by the learned counsel appearing for the petitioners on instructions that in the immediate next meeting of the Board of Directors of the CIDCO, a proposal for cancellation of resolution No.10136 dated

14/7/2019 shall be placed;

- ii) We direct the Board of Directors to take appropriate decision on the said proposal as expeditiously as possible and, in any event, within a period of 3 months from today;
- iii) We make it clear that we have made no adjudication on the right of the CIDCO to cancel or modify the resolution. All the contentions of the parties on merits are kept open;
- iv) We direct the CIDCO to communicate the decision taken by the Board of Directors to the parties to both the petitions;
- v) The decision shall be communicated to the parties within a period of 2 weeks after the minutes of the Board meeting are approved;
- vi) After the decision is communicated, it will be open to the parties to file appropriate proceedings in accordance with law as observed in this judgment and order;
- vii) The petitions are disposed of in above terms.

(V. L. ACHLIYA, J.)

(A. S. OKA, J.)

C E R T I F I C A T E

“ Certified to be true and correct copy of the original signed Judgment/Order.”