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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELATE JURISDICTION
CIVIL APPLICATION NO.1008 OF 2015 IN
WRIT PETITION NO.7571 OF 2013

City & Industrial Development
Corporation of Maharashtra Ltd.
And others

...Applicants

vs.

Rachana Co-op Housing Society
Ltd. & Anr.

...Respondents

Mr.Ashutosh M. Kulkarni for the applicants

Mr.Ranbir Singh a/w Mr.Hiren G. Shah i/b M/s.Prakash
and Co. for the respondents

CORAM : A.S.OKA, &

REVATI MOHITE DERE, JJ.

DATE : JUNE 16, 2015

P.C.:

1 Heard the learned counsel for the applicants and the learned counsel for the writ petitioner. Perused the orders dated 14th August 2014 and 23rd January 2015. The dispute in the main writ petition is as regards the allotment of the plot in question to the petitioners in the Writ Petition. Clause 5 of the order dated 14th August 2014 is very clear. No action touching the issue of the allotment of the plot which was earlier allotted to the petitioners can be taken by the applicants as the order of this Court directs that status quo as regards the said plot shall be maintained. The said ad-interim relief has been continued as interim relief by the order dated 23rd January 2015. The order dated 23rd

January 2015 has been passed after hearing the applicants.

2 It is pertinent to note that the applicants have not challenged the order dated 23rd January 2015. The applicants have not applied for the modification of the said interim order. This application is made for seeking clarification in terms of the prayer clause (b) which reads thus:

“(b) to clarify the order dated 23.1.2015 passed by this Hon'ble Court (Coram: A.S.Oka & A.K.Menon,JJ.) suitably thereby permitting the Board of CIDCO to implement the BR dated 20.1.2015 i.e to withdraw the BR dated 30.6.2015 and to reconsider the issue of cancellation of allotments of the plots to the petitioners on merits and after giving hearing to the petitioners provided however that any decision taken by the Board should not be implemented, without leave of this Hon'ble Court”

3 By Board Resolution No.11117 dated 30th June 2014 of the Board of the first applicant, the earlier decision taken by the first applicant to allot the plot in question to the petitioners in the writ petition was cancelled. By amending the writ petition, the said Resolution dated 30th June 2014 has been challenged by the petitioners. Rule has been issued in the Writ Petition. When the ad-interim order dated 14th August 2014 was in force,

the Resolution dated 20th January 2015 has been passed purporting to cancel the said Resolution dated 30th June 2014. The resolution provides that the Board of the first applicant has agreed to reconsider the matter of cancellation of allotment of the plot to the petitioners.

3 In view of the order of status quo, prima facie, the Board of the first applicant could not have passed any resolution which could have affected the status quo in respect of the plot in question. After having passed the Resolution dated 20th January 2015 in breach of the ad-interim order of status quo, now the applicants want a clarification from this Court so that an endeavour can be made by the applicants to implement the Resolution dated 20th January 2015 which is contrary to the order of status quo.

4 The first applicant-CIDCO is a Government owned company and the special Planning Authority for New Bombay. The present application filed for seeking clarification is nothing but an attempt to get over the difficulties created by the Board Resolution dated 20th January 2015 which is in breach of the order of status quo dated 14th August 2014. Therefore, the applicants are not entitled to seek any clarification as regards the interim order.

5 As the Resolution dated 20th January 2015 has been passed when the order of Status quo was operative, the effect of the said order of status

quo on legality and validity of the said Resolution will have to be tested at the time of final hearing of the petition. There is no merit in the application seeking clarification and the same is rejected.

(REVATI MOHITE DERE,J.)

(A.S.OKA,J.)