

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

rrpa

WRIT PETITION NO.8698 OF 2014

Chandrashekhar Madhukar Pethe .. Petitioner
Vs.
The State of Maharashtra & Ors. .. Respondents

....
Ms.Jai Kanade i/b. Ms.Neha Valsangkar, Advocate for the Petitioner.
Mr.V.S. Gokhale, AGP for the Respondents 1 and 3 to 5.
Ms.Chaitrali Anand Deshmukh, Advocate for the Respondent No.2.
....

**CORAM : A.S. OKA &
A.P. BHANGALE, JJ.**

DATED : APRIL 1, 2015.

P.C. :

Heard the learned counsel appearing for the petitioner,
learned AGP for the respondent nos.1, 3 to 5. Heard the learned
counsel appearing for the 2nd respondent.

2 The case of the petitioner is that final plot No.27 has
been allotted to him under the Town Planning Scheme No.II, Nashik.
According to the case of the petitioner, the area of the plot no.27 is
shown as 21,925 sq. meters. The contention in the petition is that lay
out plan shows that in fact the correct area of the final plot no.27 is
23,654 sq. meters. The petitioner made an application dated 2nd

September, 2003 to the State Government seeking rectification of the Town Planning Scheme for showing the correct area of the final plot. The said application made by the petitioner was forwarded by the State Government to the 2nd respondent – Planning Authority. As no action is taken by the 2nd respondent, the present petition has been filed. Today, the learned counsel appearing for the 2nd respondent has tendered across the bar a letter dated 31st March, 2015, addressed by the 2nd respondent to the Town Planning Department. It is contended in the said letter that as a plan of the final plot drawn by the Taluka Inspector Land Records has not been produced, it is not possible to verify whether there is a variation of the area of the final plot no.27. It is stated in the said letter that if the petitioner files such a map on record, necessary steps can be taken.

2 The learned counsel appearing for the petitioner on instructions states that the petitioner will submit to the 2nd respondent authentic plan of the final plot No.27 drawn by a survey officer under the Maharashtra Land Revenue Code, 1966 to enable the Municipal Corporation to ascertain the correct area of the final plot no.27. We accept the said statement.

3 If the 2nd respondent is satisfied that the area of final plot

no.27, as shown in the Town Planning Scheme is erroneous, the 2nd respondent will have to apply in writing to the State Government for variation of the scheme in accordance with Sub-section (1) of Section 91 of the Maharashtra Regional and Town Planning Act, 1966 (hereinafter referred to as “the said Act of 1966”, for short).

4 Hence, we dispose of the petition by passing the following order:

:: ORDER :

(i) The petitioner shall produce a plan of final plot no.27 drawn by appropriate survey officer under the Maharashtra Land Revenue Code, 1966, prepared after actual survey and demarcation. Plan shall be filed with the 2nd respondent;

(ii) As and when the plan is filed, the 2nd respondent shall examine the same. If it is found that area disclosed by such a plan is different from the area of the final plot no.27 shown in the sanctioned Town Planning Scheme, the 2nd respondent shall submit an application, as contemplated by Sub-section (1) of Section 91 of the Maharashtra Regional and Town Planning Act, 1966 to the State Government;

(iii) The exercise of verification of the area of the final plot no.27 shall be completed by the 2nd respondent within a period of one month from the date on which an authentic survey map is produced by the petitioner. If the 2nd respondent finds that the area mentioned in the Town Planning Scheme is correct, a communication to that effect shall be issued the petitioner;

(iv) If the 2nd respondent finds on the basis of the survey map of the area shown of the final plot no.27 of the Town Planning Scheme is not correct, within a period of one month from the date of submission of the survey plan, the 2nd respondent shall file an application to the State Government under Sub-section (1) of Section 91 of the said Act of 1996;

(v) The State Government shall take appropriate steps on the basis of such application made by the 2nd respondent in accordance with Section 91 of the said Act of 1966;

(vi) The process of taking final decision in terms of Sub-section (6) of Section 91 shall be completed by the State Government within a period of nine months from the date on which the application is made by the 2nd respondent.

(vii) The petition is disposed of on the above terms.

(viii) All concerned to act upon an authenticated copy of this order.

(A.P. BHANGALE, J.)

(A.S. OKA, J.)