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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.10607 OF 2014**

Akhil Sanpada Rahivasi Sanskrutik Prathisthan ... Petitioner

Vs.

Tanzimul Muslimin Society and Ors. ... Respondents

Mr. Ganesh K. Sovani, for the Petitioner.

Mr. Sagheer A. Khan i/by Judicare Law Associates, for the Respondent No.1.

Mr. Akshay Shinde i/by Mr. Ashutosh M. Kulkarni, for Respondent No.2.

Mr. V.P. Malvankar, AGP, 'A' Panel, for Respondent Nos.3 to 6.

**CORAM : A.S. OKA &
REVATI MOHITE DERE, JJ.**

DATE : 4th AUGUST, 2015

P.C.

. The challenge in this Writ Petition under Article 226 of the Constitution of India is to the resolutions dated 21st December, 2006 and 1st December, 2008 passed by the Board of Directors of the City and Industrial Development Corporation of Maharashtra Limited (for short “CIDCO”). The said challenge is made as the Petitioner wants to challenge the allotment of plot No.17-A of Sector 8 of Sanpada, Navi Mumbai to the first Respondent Trust.

2. As per the Judgment and Order dated 8th August, 2014 passed by a Division Bench of this Court in Writ Petition No.1270 of

2014, the CIDCO has been directed to place the first Respondent in possession of the said plot.

3. Prayer clause (d) of this Petition which is one of the substantive prayers reads thus :-

“(d) the Hon'ble Court may be pleased to restrain the Respondent No.2 from handing over the possession of the Plot No.17 – A Sector 8 of Sanpada, Navi Mumbai in pursuance of the order Dt.08.08.2014 in view of discovery of new facts.”

4. In effect, the Petitioner wants to prevent the CIDCO from handing over possession of the plot to the first Respondent in terms of the Judgment and Order dated 8th August, 2014. The present Petitioner had filed Civil Application No.1591 of 2014 in Writ Petition No.1270 of 2014. Advocate for the Applicant was heard before passing the Judgment and Order dated 8th August, 2014. The learned counsel appearing for the first Respondent states that in terms of the Judgment and Order dated 8th August, 2014, the CIDCO has executed Agreement to Lease in respect of the said plot on 17th November, 2014 and that the first Respondent has been placed in possession of the said plot.

5. As the Petitioner was heard while passing Judgment and Order dated 8th August, 2014, no relief can be granted to the Petitioner in this Petition under Article 226 of the Constitution of India. By the

Judgment and Order dated 8th August, 2014, a direction was given to the CIDCO to hand over possession of the plot in question to the first Respondent Society and to execute necessary documents in respect of the said plot. Reliefs claimed in this Petition are completely contrary to the Judgment and Order dated 8th August, 2014 which as of today has attained finality. If the Petitioner was aggrieved by the order dated 8th August, 2014, the Petitioner ought to have challenged the same in accordance with law. Hence, it is not possible to entertain this Writ Petition. Jurisdiction of this Court under Article 226 of the Constitution of India is always discretionary. Considering the fact that the Judgment and Order dated 8th August, 2014 has attained finality as of today, we decline to entertain this Petition and the Petition is accordingly rejected.

(REVATI MOHITE DERE, J)

(A.S. OKA, J)