

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO.11579 OF 2014**

Palava Dwellers Pvt. Ltd. & Anr. .. Petitioners.
Vs.
State of Maharashtra & Ors. .. Respondents.

Mr.Ravi Kadam, Sr. Advocate a/w Mr.Vishal Kanade i/b Kanga & Co.
for the Petitioners.
Mrs.M.P. Thakur AGP for the Respondent No.1.
Ms.Niraja Patani i/b Ms.Kiran Bagalia for the Respondent Nos.2 and
3.

CORAM : A.S. OKA & A.K. MENON, JJ.

DATED : 10TH FEBRUARY, 2015

P.C.

1. Heard learned senior counsel for the petitioners, the learned AGP for the first respondent and the learned counsel appearing for the second and third respondents.

2. The petitioners are relying upon the order passed by the State Government on 11th September 2014, in exercise of powers under section 47 of the Maharashtra Regional and Town Planning Act, 1966 (for short "MRTP Act"). The challenge before the State Government was to the order passed by the second respondent on 15th February 2011, by which an application made by the petitioner

under section 44 of the MRTTP Act for grant of development permission was rejected. The operative part of the said order dated 11th September 2014 reads thus :

“In view of the above I pass the following order :

- a. The Appeal is allowed.
- b. The Impugned order dated 15th February, 2011 is hereby quashed and set aside.
- c. The Appellant is granted permission to develop the Lands as per the plans submitted which area as per the Regional Plan prevailing then and the Appellant is directed to rectify the technical and other errors, if any, as per RP Regulations.
- d. The cognizance of this order shall be taken in the proposed Development Plan.”

The grievance of the petitioner is that the second and third respondents have not acted upon the said order.

3. Learned counsel appearing for the second and third respondents, on instructions, states that they have not received any communication from the State Government about the said order. Learned AGP, on instructions, does not dispute the existence of the order dated 11th September, 2014 passed by the State Government. However, she states that as the file is pending before the Hon'ble Chief Minister, the said order has not been communicated to the second and third respondents.

4. In this petition, this Court is not concerned with the legality and validity of the order dated 11th September 2014. There are no proceedings filed for challenging the said order. There are no proceedings filed for recall or review of the said order. So long as the order dated 11th September 2014 continues to operate, the same will have to be implemented by all the concerned.

5. Therefore, without expressing any opinion on the legality and validity of the order dated 11th September 2014, we dispose of the petition by the following order :

- (i) We direct the first respondent to forward a true copy of the said order dated 11th September 2014 to the second and third respondents within a period of three weeks from today;
- (ii) On receipt of the said order dated 11th September 2014, the second and third respondents shall take necessary steps to implement the said order in accordance with law as expeditiously as possible and in any event within a period of eight weeks from the date on which the said order is received by the second and third respondents;
- (iii) We dispose of the petition with above directions.
- (iv) All concerned to act on an authenticated copy of this order.

(A.K. MENON, J.)

(A.S. OKA, J.)