

(WPL 506 of 2015, WPL 507,
Wpl 297 of 2015)

vat

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION (L) No. 506 OF 2015

Sandeep Estate Developers Pvt. Ltd.Petitioners
Vs.
State of Maharashtra and Ors.Respondents

WITH
WRIT PETITION (L) No. 507 OF 2015

Makraj Nagar SRA Co-operative
Housing Society Ltd.Petitioners
Vs.
The State of Maharashtra and Ors.Respondents

WITH
WRIT PETITION No. 279 OF 2015

Mala Pandi Nadar and
Kanthesh Kumar PandiPetitioners
Vs.
The State of Maharashtra and OrsRespondents

Mr. Madhur S. Surana for Petitioners in WPL No. 506 of 2015 and for
Respondent No. 5 in WPL No. 279 of 2015

Mr. Ashish Kamat i/b. C.N. Gole for Petitioners in WPL No. 507 of 2015
and for Intervenor in WPL No. 279 of 2015

Mr.Vignesh Pandi CA of Petitioner No.1 present in person in WPL
NO.297 of 2015 and In WPL No. 507 of 2015 for C.A. of Respondent
No.3

Mr.Kathesh Pandi, Petitioner No.2 in person in WPL No.279 of 2015
and for Respondent No.4 in WPL No. 506 of 2015 and WPL No. 507 of
2015.

Mr,. V.S. Tiwari, AGP for Respondent Nos.1 and 2 in WPL No. 506 of
2015

Mr. M.A. Sayed, AGP for Respondent Nos.1 and 2 in WPL No. 507 of
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CORAM : V. M. KANADE &
A. R. JOSHI, JJ

DATE : FEBRUARY 25, 2015

P.C. :

1. The grievance of the Society in Writ Petition (L) No. 507 of 2015 and of the Developers in Writ Petition (L) No. 506 of 2015 is that the High Power Committee is passed the impugned order without giving a reasonable opportunity to the Developers and without hearing the society, who was not added as the Party Respondent before the High Power Committee.

2. On the other hand, the Claimants / Petitioners in WP Nos. 279 of 2015 submit that though the High Power Committee has accepted the contention that there were two structures and not one structure, the measurement of the structures is improperly and incorrectly stated in the impugned order.

3. We have perused the impugned order. From the order, it is clear that the Developers' advocate happened to be present when the matter being heard. The Claimants gave their no objection for the Developers being added as Party Respondents. The High Power Committee, however, not given reasonable time to the Developers and decided the matter without giving a copy of the application along with the annexures and secondly, from the record it can be seen that the the Society also was not added as Party Respondent. In our view, the Society as well as the Developers are the proper and necessary parties in the said proceeding, The impugned order is passed without giving a reasonable opportunity to the Developers and the Society and

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therefore, the impugned order, will have to be set aside and the matter will have to be remanded back to the High Power Committee.

4. Hence the impugned order is set aside and the matter is remanded back to the High Power Committee. The High Power Committee shall consider the case of the Petitioners in WPL No. 279 of 2015 regarding measurement of the structure and pass an order expeditiously within a period of eight weeks. All the parties to appear before the High Power Committee on 17th March, 2015, on which date, the High Power Committee shall give a next date of hearing. The Petitioners in WPL No. 279 of 2015 to give a copy of the application filed before the HPC to the Society and the Developers along with the annexures. The High Power Committee shall expeditiously dispose of the application within a period of eight weeks. The High Power Committee shall pass a fresh order on merits and in accordance with law. We have not expressed any opinion about the merits of the case. The writ petitions are, accordingly, disposed of in the aforesaid terms.

[A.R. JOSHI, J.]

[V. M. KANADE, J.]