

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
PUBLIC INTEREST LITIGATION (L) NO.42 OF 2015

Ms Gayatri Singh a/w Zaman Ali for the Petitioners
Mr.S.U.Kamdar, Senior Counsel a/w Ms Trupti Puranik
for BMC
Mr.M.R.Prajapati a/w Rui Rodrigues for the
respondent No.2
Ms Sharmila Deshmukh for respondent No.3
Mr.G.W.Mattos, AGP for State

P.C.:

2 By a notification dated 25th February 2015
issued by the Municipal Corporation, the objections
and suggestions have been invited from the members
of the public in respect of the Draft Development
Plan of Greater Mumbai 2014-2035. On plain reading
of the said notification, it appears to us that the
said notification is issued under sub-section 1 of

section 26 of the Maharashtra Regional and Town Planning Act, 1966 (for short the 'MRTP Act'). As per sub-section (1) of section 26 of the MRTP Act, the Mumbai Municipal Corporation which is the Planning Authority has invited the objections and suggestions to the Draft Development Plan prepared by it. After the time fixed for filing objections and suggestions is over, the steps will have to be taken in accordance with sub-section (1) of section 28 of the MRTP Act. Sub-section (2) of section 28 requires the Planning Officer or the Officer appointed by the Municipal Corporation to forward all objections and suggestions received by it to the Planning Committee. Under sub-section 3 of section 28, the Planning Committee, on receipt of all objections and suggestions is required to make an enquiry after giving a reasonable opportunity of being heard to any person including the representatives of the Government Department who may have filed any objection or made any suggestions. Thereafter, the Planning Committee is required to submit a report. Only after such report is submitted, the Planning Authority after considering the report has to publish the Draft Development Plan. Even at this stage, the Planning Authority can make modifications and changes in the Draft Development Plan notified in accordance with sub-section (1) of section 26. Thereafter, under sub-section (1) of section 30 of the MRTP Act, the Draft Development Plan is required to be submitted to the State Government for sanction. Under sub-section (1) of section 31, the State Government has wide

powers. The State Government may reject the Draft Development Plan or the State Government may sanction only a part of the Draft Development Plan, the State Government may make modifications or changes of substantial nature in the Draft Development Plan after publishing a notification under the second proviso to section 31. The State Government has also a power to direct the Planning Authority to prepare a fresh Development Plan. In short, as of today, even the Draft Development Plan is not finalised by the Planning Authority. The same can be finalised only after the Planning Committee hears the objections and suggestions. Even assuming that the Draft Development Plan is approved by the Planning Authority as it is and is submitted to the State Government, the power to reject the entire Draft Development Plan and even a power to return the Draft Development Plan is vested in the State Government. Therefore, the substantive challenge to the Draft Development Plan need not be entertained at this stage. Time for filing objections and suggestions is not yet over. The petitioners can always file objections and suggestions. The challenge is premature.

3 As far as the prayer clause(c) is concerned, the learned counsel for the respondent No.3 states that CZMP plan is not yet finalised.

4 If the petitioners raise objections including the objections as regards illegality or defects in existing land use map prepared as per section 24 of

the MRTP Act, the Planning Committee and thereafter the Planning Authority is bound to look into the said aspect.

5 Subject to what is observed above, at this stage, this petition need not be kept pending. By keeping all the rights and contentions of the petitioners open, we dispose of the petition.

(C.V.BHADANG,J.)

(A.S.OKA,J.)