

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

WRIT PETITION NO.72 OF 2015

Ivory Tower CHS Ltd.

... Petitioner

Vs.

Municipal Corporation of Greater Mumbai & ors. ... Respondents

Mr.M.M. Vashi, Sr.Advocate a/w Ms.Aparna Deokar i/b M.P. Vashi & Associates for the Petitioner

Ms.Shobha Ajithkumar for Respondent Nos.1 & 2

Mr.M.P. Jadhav, Assistant Government Pleader, for Resp. No.3

Mr.S.U. Kamdar, Sr.Adv. a/w Jyoti Sinha i/b Negandhi Shah & Himayatullah for Resp. No.5

**CORAM: MRS.VASANTI A. NAIK &
MRS.MRIDULA BHATKAR, J.**

DATE: 9th MARCH, 2015

P.C.:

By this petition, the petitioner seeks a direction to the respondent Nos.1, 2 and 3 to take immediate action on the complaint of the petitioner, dated 15.4.2014 so that the respondent Nos.4 and 5 should be restrained from making any construction activity on the plot in question.

The petitioner and the respondent Nos.4 and 5 are the Developers of the adjoining plots. According to the petitioner, the respondent Nos.4 and 5 are unauthorisedly constructing a multi-storied building on the adjoining plot. According to the petitioner, the construction carried out by the

respondent Nos.4 and 5 on the adjoining plot is beyond the sanctioned plan. It is stated that though the petitioner had made a complaint to the respondent Nos.1, 2 and 3 for taking immediate action against the respondent Nos.4 and 5, by the communication dated 15.4.2014, the respondent Nos.1, 2 and 3 have failed to initiate any action.

On the other hand, it is submitted on behalf of the Corporation authorities that there is a boundary dispute between the petitioner on one hand and the respondent Nos.4 and 5 on the other and some revenue proceedings are pending between the parties. It is stated that in view of the ongoing fight between the parties, in respect of the boundary dispute, the petitioner appears to have filed this writ petition for taking action against the respondent Nos.4 and 5.

It is also stated on behalf of the respondent No.5 that since the revenue proceedings are pending between the petitioner and the respondent No.5 before the Divisional Commissioner, Konkan Division, the petitioner has filed the writ petition seeking action against the respondent Nos.4 and 5.

On hearing the learned Counsel for the parties, it appears that the present petition has been filed with a view to stall the construction activities of the respondent No.5 – Developer as there is a dispute pending

between the petitioner and the respondent Nos.4 and 5 before the revenue authorities. It is neither stated in the complaint nor is it pointed out in the writ petition, in what manner the respondent Nos.4 and 5 have violated the Development Control Rules or have made construction beyond the sanctioned plan. Specific particulars are absent in the complaint as well as the writ petition. In this background, it would not be possible for this Court to prohibit the respondent Nos.4 and 5 from making the construction, on the basis of the complaint made by the petitioner.

In view of the aforesaid, the writ petition is dismissed with no order as to costs. The petitioner is, however, free to take appropriate proceedings. The points raised in the petition are kept open.

(MRIDULA BHATKAR, J.)

(VASANTI A. NAIK, J.)