

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

WRIT PETITION NO.50 OF 2014

Nalin Choksey

... Petitioner

Vs.

State of Maharashtra & Ors.

... Respondents

Mr.Bhavesb Parmar i/b Devmani Shukla & V.P. Yadav for the Petitioner

Mr.M.P. Jadhav, Assistant Government Pleader, for Respondent No.1

Mr.J.G. Reddy for Resp. No.2

Ms.Vandana Mahadik for Resp. No.3

Mr.Tushar Dahibawkar for Resp. No.4

**CORAM: SMT. VASANTI A. NAIK &
SHRI C.V. BHADANG, JJ.**

DATE: 24th FEBRUARY, 2015

P.C.:

By this petition, the petitioner seeks a declaration that the issuance of the communication, dated 29.9.2009 by the Executive Engineer (Development Plan), Ward H/E, to the Licensed Surveyor for demarcation of the site and realignment of the proposed Development Plan Road is wrongful and illegal.

According to the petitioner, in furtherance of the communication referred to hereinabove, there was a realignment of the proposed development plan road and the road would now pass through most of the area of the plot owned by the petitioner. It is stated that while making demarcation of the adjoining plot, the plot of land owned and occupied by the petitioner could not have been affected.

The Assistant Engineer (Development Plan) has filed an affidavit in reply. It is stated by the learned Counsel for the Corporation on the basis of the affidavit in reply that there is no realignment as alleged by the petitioner and hence, there is no cause for filing the writ petition. It is stated that as per the office record, the realignment of 13.40 metre wide DP road is not done in the particular stretch, as stated on behalf of the petitioner. It is stated that the case of the petitioner, that in view of the realignment more area from the plot of the petitioner is affected, is not correct.

The Respondent No.4 has also disputed the case canvassed by the petitioner. It is stated that the realignment does not affect the plot of the petitioner.

It appears, on hearing the learned Counsel for the parties, that there is a serious dispute whether the plot of the petitioner is affected by the realignment. It is asserted by the petitioner that in view of the realignment, the plot of the petitioner is affected, whereas it is stated on behalf of the respondents that the realignment would not affect the plot of the petitioner.

The relief sought by the petitioner cannot be granted in exercise of the writ jurisdiction and we dispose of the writ petition with no order as to costs. The points raised in the petition are kept open.

(C.V. BHADANG, J.)

(VASANTI A. NAIK, J.)