

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.

CIVIL APPLICATION (CAW) NO.1376 OF 2015

IN

WRIT PETITION NO.3911 OF 2014

(Mehboobiya Education Society, Buldana ..vs.. State of Maharashtra, Department of Town Planning,
through its Secretary, Mumbai and others)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

CORAM : Z.A. HAQ, J.

DATED : 29-09-2015

Heard Shri P.S. Patil, learned Advocate for the petitioner, Shri S.M. Bhagde, learned Assistant Government Pleader for the respondent Nos.1 and 2, Shri Abhay Sambre, learned Advocate for the respondent No.3 and Shri Tushar Darda, learned Advocate for the respondent No.5.

The petitioner has challenged the order passed by the Collector under Section 308 of the Maharashtra Municipal Councils, Nagar Panchayats & Industrial Townships Act, 1965 in the petition. By this amendment application, the petitioner seeks to bring on the record certain subsequent events and the petitioner seeks to challenge the order of the Municipal Council refusing permission to the petitioner to undertake the temporary construction on the land leased out to the petitioner. The learned Advocates for the respondents opposed the amendment application on the ground that the petitioner

has alternate statutory remedy available to challenge the order issued by the Municipal Council which is being sought to be challenged by amending the petition.

Considering the fact that the subject matter of the petition and the amendment application is connected and the fact that the petition is admitted for final hearing keeping open the point about maintainability of the writ petition on the ground of availability of alternate statutory remedy under Section 318 of the Maharashtra Municipal Councils, Nagar Panchayats & Industrial Townships Act, 1965, in my view, the petitioner can be permitted to amend the writ petition as prayed in the civil application. The objection raised on behalf of the respondents about tenability of the challenge to the order, in the petition will be considered at the time of final hearing.

Civil Application is allowed accordingly.

Civil Application No.2222/2014.

The filing of true translation of the document in vernacular is dispensed on condition that the petitioner shall file true translation as and when directed by the Court.

Pursis Stamp No.6624 of 2015.

The facts pleaded by the pursis cannot be

considered unless proper application for amending the pleadings is filed.

Pursis rejected.

JUDGE

pma