

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 4934 OF 2012

(Deegee Infracon Pvt. Ltd. Thr. Its Director Mr. Yog Navalkumar Bhoot vs. The State of Maharashtra thr. the Secretary, Urban Development Department & Ors.)

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

Court's or Judge's orders

**CORAM : B.P. DHARMADHIKARI &
S.B. SHUKRE, JJ.
MARCH 18, 2015.**

Heard Shri Mundhada, learned counsel for the petitioners, Shri Patil, learned AGP for respondent Nos. 1 & 4 and Shri Shingane, learned counsel for respondent Nos. 2 & 3.

This writ petition was earlier disposed of on 12.04.2013, however, after noticing that in the judgment, Reservation Site number was mentioned as 256, the recall of said order was sought and that prayer was granted on 07.11.2014 while allowing CAO No. 1319 of 2014 and MCA Stamp No. 17321 of 2014. Writ Petition is thus placed back for fresh consideration.

In earlier judgment, if the Reservation Site number is ignored, all other relevant developments remain as it is. Thus, service of valid notice under Section 127 of the Maharashtra Regional & Town Planning Act, 1966 (hereinafter referred to as the Act), expiry of period of one year thereafter and absence of any step leading to acquisition by

Municipal Corporation is not in dispute. The petitioner has taken out Civil Application (W) No. 429 of 2015 to correct Reservation Site number as 255 in para 6 of writ petition as also in its prayer clause.

Shri Mundhada, learned counsel submits that though under Section 127 of the Act, in para 1, Reservation Site number is mentioned as 256, it has not affected application of mind by the Planning Authority. The Planning Authority while forwarding the reply on 21.04.2012 has mentioned correct site No. 255. Similarly, when the proposal was sent to the State Government by its A.D.T.P., correct site number has been mentioned. Only because of mention of said site number as 256 in the judgment of this Court, said proposal sent by the Municipal Corporation came to be returned back.

As we find that the mention of Reservation site number erroneously as 256 has not affected or prejudiced the application of mind by any of the authorities, it is apparent that the same result as declared by this Court on 12.04.2013 must follow.

Accordingly, following the law laid down by the judgments of the Hon'ble Apex Court in the case of Girnar Traders vs. State of Maharashtra, reported at 2011 (3) SCC 1, State of Maharashtra vs. Bhakti Vedant Book Trust & Ors., reported at (2013) 4 SCC 676 and Shrirampur Municipal Council vs. Satyabhama Bhimji Dawkher & Ors., reported at 2013

(5) SCC 62, we declare that the Reservation of Site No. 255 for the purpose of Library has lapsed and said land has become available for its use as per the users of adjacent land in Development map.

Writ Petition is thus allowed and disposed of. However, in the facts and circumstances of the case, there shall be no order as to costs.

JUDGE

JUDGE

*GS.