

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 1831 OF 2016

M/s Shree Ram Construction Co.
Through its Partners Ashutosh
Shivnath Navandar and another .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri A. S. Bajaj, Advocate for Petitioners.
Shri S. P. Sonpawale, A.G.P. for the Respondent No. 1.
Shri S. B. Deshpande, Advocate for Respondent Nos. 2 to 4.
Shri P. K. Nikam, Advocate for the Respondent No. 5.

**CORAM : S. V. GANGAPURWALA AND
K. K. SONAWANE, JJ.**

DATE : 26TH APRIL, 2016.

PER COURT :

. Mr. Bajaj, the learned counsel for petitioners submits that, the petitioners applied for layout, which was sanctioned. Subsequently petitioners applied for revised layout. The revised layout was sanctioned on 28th August, 2013. According to the learned counsel, further steps were required to be taken thereafter. Vide order dated 16.01.2016 the respondent/Municipal Corporation stayed the sanction of revised layout. According to the learned counsel, there are no orders passed by any Court of competent jurisdiction with regard to the

revised layout. The respondent/Corporation could not have stayed the same.

02. Mr. Deshpande, the learned advocate for the respondent/Municipal Corporation submits that, the corporation had sanctioned revised layout after following due procedure of law. As there is dispute between present petitioners and the respondent No. 5, Corporation took the decision to stay the revised layout.

3. Mr. Nikam, the learned counsel for the respondent No. 5 submits that, the respondent No. 5 has challenged the revised layout by filing civil suit. An application for interim orders was also filed, however, an endorsement is put on the said application that the said application be decided along with main suit, as at that time there was no eminent apprehension for the plaintiff i. e. present respondent No. 5. According to the learned counsel, the corporation has rightly stayed the revised layout sanctioned to the petitioners. Various illegalities were committed while sanctioning layout in favour of the petitioners.

4. We have considered the submissions. The challenge to the layout is already subjudice before the Civil Court. It is for the competent Court to consider the factum of the layout being sanctioned properly or not. This Court would not enter into the

said dispute. The suit, no doubt is pending. But it appears that, there are no prohibitory orders passed. As such, only because the suit is pending, without there being any prohibitory orders, the respondent/corporation could not have stayed the layout. There appears debate about the date of sanction of revised layout in favour of the petitioner. We are not concerned with the same. All the parties are *ad idem* about revised layout being sanctioned in favour of the petitioners. In absence of any prohibitory orders passed by the Civil Court, it was improper for the respondent/Corporation to stay the revised layout only on the ground civil suit was filed by the respondent No. 5. The stay to the revised layout certainly is not proper as according to the Corporation, it has sanctioned revised layout after following due procedure of law and after following rules and by-laws.

5. The respondent No. 5 has right to assail the said layout and has also exercised that right by filing civil suit. It is for the respondent No. 5 to get orders from the Civil Court.

6. In the light of the above, the impugned order is quashed and set aside. Needless to state, the corporation if it wants to take any steps with regard to sanctioned layout in favour of the petitioner, same shall be by adhering to provisions of law. The respondent No. 5 is at liberty to make appropriate application before the appropriate forum with regard to the

layout in favour of the petitioners. The writ petition accordingly is disposed of. No costs.

[K. K. SONAWANE, J.]

[S. V. GANGAPURWALA, J.]

bsb/April 16