FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO.3369 OF 2015

Shivkanta W/o Dnynoba Rangire Vs. The State of Maharashtra and others.

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

Mr.T.M.Venjane, advocate for the petitioner.
Mr.B.A.Shinde, A.G.P. for the State.
Mr.S.V.Mundhe, advocate for Respondent No.3.
Mr.M.V.Ghatge, advocate for Respondent Nos.4 and 5.

CORAM : S.V.GANGAPURWALA AND K.L.WADANE,JJ.
Date : 27.09.2016.

PER COURT :

1. Heard.

2. Mr.Venjane, learned counsel for the petitioner states that the Respondent Nos.4 and 5 have carried out illegal construction on the writ site. The writ site is reserved for playground/shopping centre in the sanctioned development plan. The Respondent Nos.4 and 5 without seeking any construction permission had illegally constructed super-structure over the same. The act of Respondent Nos.4 and 5 is illegal and Municipal Council is not taking any action in that regard.

3. Mr.Ghatge, learned counsel for Respondent Nos.4 and 5

states that the construction in question is a old construction much prior to the year 2005 and the same was constructed as grain godown.

4. Mr.Mundhe, learned counsel for the Municipal Council submits that on 21.11.2015, the Municipal Council has passed a Resolution for removing the reservation of playground from S.No.466 and a proposal seeking minor modification U/s 37(1) of the M.R.T.P. Act is sent to the Government.

5. We have heard learned A.G.P. also.

6. As far as the aspect of reservation is concerned, the matter is now before the State Government, as it is submitted that the proposal is forwarded by the Municipal Council for minor modification of removing the reservation of playground from the said site U/s 37(1) of the M.R.T.P. Act. After the proposal is decided by the Government, the petitioner may take further course of action in tune with the decision taken by the Government on the proposal submitted by the Municipal Council.

7. As far as legality or validity of the construction is concerned, it is for the Municipal Council to consider the same. The Municipal Council shall consider the nature of the construction and about its legality and may take further action expeditiously. The petitioner may approach the Municipal Council in that regard.

8. The Writ Petition is disposed of. No costs.

9. Mr.Venjane, learned counsel submits that petitioner has deposited Rs.10,000/- (Rupees ten thousand) as per the directions of this Court. The same may be refunded back.

10. We have disposed of the said Writ Petition. We do not find that the petition is filed with oblique motive. Mr.Venjane, learned counsel submits that out of Rs.10,000/- (Rupees ten thousand), the petitioner would donate Rs.5,000/- (Rupees five thousand) to the High Court Bar Association. Office may return the amount to the petitioner.

(K.L.WADANE,J.) **(S.V.GANGAPURWALA,J.)**

Dt.27.09.2016.
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