

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 9453 OF 2013
WITH CA/14850/2015 IN WP/9453/2013

PRADEEP SURAJMAL GANDHI
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioners : Mr. S.D. Kulkarni, Adv. h/f. Mr. Sanket S. Kulkarni
AGP for Respondent No.1 : Mr. S.M. Ganachari.
Advocate for respondent No.2 : Mr. V.S. Bedre.

CORAM : S.V. GANGAPURWALA
& K.K. SONAWANE, JJ.
DATE : 19TH JULY , 2016.

PER COURT:

1] Mr. Kulkarni, learned counsel for the petitioner states that the petitioner is allotted final plot No 1174. Even orders are passed right since the year 1985 to deliver possession to the petitioner of the said plot. Possession has not yet been delivered to the petitioner. There are unconditional and unqualified orders in that regard by the authorities. In spite of the same, no steps are taken. Even in August, 2012 notice was issued to the petitioner to remain present for measurement. According to learned counsel, matter is proceeding in reverse direction.

2] Mr. Bedre, learned counsel for respondent No.2 submits that the Town Planning Scheme is not yet finalized. As such, possession at present cannot be given.

3] Considering the provisions, it would be too premature for the Court to consider the prayers of the petitioner. The Town Planning Scheme has not yet been sanctioned by the Government. Many things would depend upon the future eventualities. As such, it would not be possible to give any direction for handing over possession of the plot.

4] Considering the fact that, more than 40 years have lapsed, the petitioners are not in a position to enjoy the fruits of their property, it would be appropriate for the petitioners to file an application with the appropriate authority for handing over possession, which application shall be considered by the authority on its own merits, under the provisions of the MRTTP Act, expeditiously.

4] While considering the application of the petitioners if submitted, the authorities will have to consider the objection, if any, to the plots in question. So also, if any pending appeals before Tribunal will have any bearing on the writ plots, Planning authority also has to consider whether any proposal for withdrawal of scheme is in the offing or not and finally the say of the State who is authority to sanction final scheme.

5] With these observations, writ petition is disposed of. It is made clear that all contentions are kept open.

[K.K. SONAWANE]
JUDGE

[S.V. GANGAPURWALA]
JUDGE.

grt/-