

-1-

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

WRIT PETITION NO. 8620 OF 2015

MUMTAJ JAHA BEGUM ABDUL HADI AND ANOTHER
VERSUS
CITY AND INDUSTRIAL DEVELOPMENT CORPORATION OF
MAHARASHTRA, NEW AURANGABAD

...
Advocate for Petitioners : Patil Indrale Anand V.
...

**CORAM : S.S.SHINDE &
V.L.ACHLIYA,JJ.**

DATED : 8TH MARCH,2016

PER COURT :-

Heard learned counsel for the petitioners. He submits that the applications filed by the petitioner are rejected by respondent CIDCO on the ground that the open space which is claimed by the petitioners is not odd shape plot, and there is a path way on the said place and therefore, same place is reserved. According to the counsel appearing for the petitioners, already path way exists at some other place and not on the place which is indicated by the respondent-CIDCO in the impugned communication. Therefore, relying upon the grounds raised, Annexures, which are placed on record alongwith petition, counsel for petitioners submits that the petition deserves

consideration.

2] Respondent CIDCO has filed affidavit in reply. In para 2 of the said affidavit in reply, it is stated that, what is being claimed by the petitioners claiming the plot to be odd shape is not an odd shape plot, it is 3.5 mtrs wide path way and beyond path way there is place earmarked for retail vegetable market. It is also stated in para 4 that the petitioner no.1 has encroached on the path way and has constructed stair case and as a result, in order to clear the path way it is necessary to remove construction of stair case made by the petitioner no.1 on the path way for which appropriate steps would be taken.

3] Upon hearing counsel for the petitioners and upon perusal of the reply filed by the respondent, it is abundantly clear that the plot claimed by petitioner is not odd shape plot and therefore, as per policy of CIDCO said space cannot be given to the petitioner. If CIDCO has already not initiated the action/steps to remove the encroachment on path way made by the petitioner no.1, CIDCO as assured in para 4 of the affidavit in reply, should initiate the steps forthwith to remove the said encroachment. We have not expressed any opinion on said aspect, and it is for the CIDCO to abide by statement made in affidavit in reply. No case is made out for

interference. Petition is devoid of any merit. Hence the same stands rejected.

(V.L.ACHLIYA,J.)

(S.S.SHINDE,J.)

umg/