

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**BENCH AT AURANGABAD****WRIT PETITION NO. 11418 OF 2015**

M/S PRABHAT CONSTRUCTIONS THROUGH PROPRIETOR ARUN
TUKARAM SONAWANE
VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Sabnis Ameya N.
AGP for Respondent/State : Mr. S.P. Sonpawale
Advocate for Respondent nos. 3 and 4 : Mrs. Deshpande Manjusha A.

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

Dated: March 10, 2016

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PER COURT :-

The learned counsel appearing for Respondent Nos. 3 and 4 has tendered across Bar the copy of the reply affidavit on behalf of the Respondent Nos. 3 and 4. The same is taken on record.

2. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the Respondent Nos. 3 and 4. We have considered the submissions advanced by the learned counsel appearing for the petitioner and the learned counsel appearing for the Respondent Nos. 3 and 4. We have carefully perused the contents of both the notices.

3. It appears that, both the notices are not signed either by the owner or any person interested in the land. Therefore, the mandate of the provisions of Section 127 of

the Maharashtra Regional and Town Planning Act, 1966, is not followed. Apart from it, it appears that, when the first notice was given by the Advocate of the petitioner, but the said notice was not signed by the petitioner himself. An important documents; namely, Property Card, Toch Map and Measurement map were not annexed with the said notice. It further appears that, the another notice was given by the Advocate for the petitioner on 4th October, 2014, which was also not signed by the petitioner. But upon conjoint reading of the notice dated 25th July, 2014, reply given by the Respondent Nos. 3 and 4 to the said notice and another notice/letter dated 4th October, 2014, it appears that, the notice dated 4th October, 2014, was not fresh notice and as already observed, it was continuation of the earlier notice dated 25th July, 2014. Therefore, said notice cannot be treated as valid notice.

4. In the light of the discussion hereinabove, and in particular, non compliance of the mandate of provisions of Section 127 of the M.R.T.P. Act, the notice should be given either by the owner or any person interested in the land, we cannot accept the submission of the learned counsel for the petitioner that, though the notice was not signed by the owner himself or any other interested person in the land, it should be treated as valid notice issued under Section 127 of the M.R.T.P. Act. For the reasons aforesaid, we are unable to persuade ourself to grant any relief to the petitioner. Therefore, the Petition stands rejected. However, we make it clear that, rejection of this Petition cannot be

construed as an impediment to issue fresh notice by the petitioner to the Corporation under the provisions of Section 127 of the M.R.T.P. Act.

(**V.L. ACHLIYA, J.**)

(**S.S. SHINDE, J.**)

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