

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 888 OF 2015

MR.SANJEEV S.P. RAITURKAR.

... Petitioner

Versus

M/S.IDEA CELLULAR LIMITED @ BIRLA
AT AND T COMMUNICATIONS LTD. REP.
ITS MANAGER SHRI.ABHIJIT E.AHER.

... Respondent

Mr. Nigel Da Costa Frias, Advocate for the petitioner.

Mr. P. P. Singh, Advocate for the respondent no.1.

Ms. Priyanka Kamat, Addl. Government Advocate for respondent
nos.2 and 4.

Mr. M. Pereira, Advocate for the respondent no.3.

Ms. P. Bhandari, Addl. Government Advocate for respondent no.5.

Coram:- F. M. REIS &
NUTAN D. SARDESSAI, JJ.

Date:- 9th June, 2016

P.C.

Heard.

2. The above petition inter-alia takes an exception to the order passed by the Town and Country Planning Board dated 27.10.2014 whereby the issue of the licence to the subject construction put up by the respondent no.1 has been directed to be examined by SGPDA-respondent no.3 in the context of examining the renewal of such development permission issued by such authority.

3. Mr. Nigel Da Costa Frias, learned counsel appearing for the petitioner has pointed out that it is the stand of the respondent no.3

that the respondent no.1 had in fact deviated from the original plan and as such they were liable for demolition in terms of the Town and Country Planning Act. The learned counsel as such points out that in such circumstances the question of examining the renewal of such plan does not arise and in fact the directions issued by the Board have to be examined by the respondent no.3 in the context of regularisation, if at all the respondent no.1 is so entitled.

4. Mr. M. Pereira, learned counsel appearing for the respondent no.3 has in fact pointed out that an order came to be passed by the respondent no.3 suspending the development permission as according to the respondent no.3, there were deviations carried out by the respondent no.1 while carrying out such development as well as some violations of the terms of the permission granted by the respondent no.3. The learned counsel further points out that in such circumstances, the directions issued by the Board have to be examined in the context as to whether the respondent no.1 is entitled for regularisation of the development carried out by the respondent no.1 in accordance with law.

5. Mr. P. P. Singh, learned counsel appearing for the respondent no.1 has pointed out that though the respondent no.1 had all the permissions from the authorities to carry out the subject construction nevertheless, in case the respondent no.3 finds that there are any deviations while carrying out such development, the respondent no.3

would have to examine whether the respondent no.1 is entitled for regularisation of such construction in accordance with law. The learned counsel further pointed out that the respondent no.1 has not carried out any illegality as according to him the respondent no.1 has proceeded to put up the construction in accordance with the plan approved by such authorities.

6. Ms. P. Kamat, learned Addl. Government Advocate appearing for the respondent nos. 2 and 4 points out that the directions which have been issued in the impugned order by the Board would have to be examined in the context as to whether the respondent no.1 is entitled for regularisation of the subject construction.

7. Mr. M. Pereira, learned counsel appearing for the respondent no.3 upon instructions states that the decision pursuant to the impugned order would be taken by the respondent no.3 within three months from today.

8. We have given our thoughtful consideration to the rival contentions and we have also gone through the records. Once it is the stand taken by the respondent no.3 that there were deviations carried out in the development of the subject project from the development permission, such deviation, if any would have to be examined in the context as to whether the respondent no.1 is entitled for regularisation

of such development in accordance with law. The respondent no.3 as such would have to consider whether any such alleged deviation would fit within the statutory requirements of the relevant statutory regulations.

9. Mr. Pereira, the learned counsel appearing for the respondent no.3 submits that the parties may be directed to appear before the respondent no.3 on 17.06.2016 at 3.00 p.m. The parties who are represented in Court shall take note of such notice and appear before the respondent no.3, if they so desire on the said date.

10. With the above observations, the above petition stands disposed of.

NUTAN D. SARDESSAI, J.

F. M. REIS, J.

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