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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WITH
WRIT PETITION NO. 4022 OF 2016

Balwant Nathu Vinode ...Petitioner
Vs.
The State of Maharashtra & Ors. ...Respondents

WITH
WRIT PETITION NO. 4027 OF 2016

Shankar Tukaram Wakadkar & Anr. ...Petitioners
Vs.
The State of Maharashtra & Ors. ...Respondents

WITH
WRIT PETITION NO. 4517 OF 2016

Tukaram Nivruti Vinode ...Petitioner
Vs.
Pimpri Chinchwad Municipal Corpn. & Ors. ...Respondents

WITH
WRIT PETITION NO. 4820 OF 2016

Ananda Ganpat Vinode & Ors. ...Petitioner
Vs.
The State of Maharashtra & Ors. ...Respondents

WITH
WRIT PETITION NO. 4821 OF 2016

Smt. Kunda Tukaram Vinode & Anr. ...Petitioner
Vs.
The State of Maharashtra & Ors. ...Respondents

WITH
WRIT PETITION NO. 4822 OF 2016

Maruti Baban Vinode ...Petitioner
Vs.
The State of Maharashtra & Ors. ...Respondents

WITH
WRIT PETITION NO. 4823 OF 2016

Smr. Rekha Gulab Vinode ...Petitioner
Vs.
The State of Maharashtra & Ors. ...Respondents

WITH
WRIT PETITION NO. 4824 OF 2016

Gulab Sopan Vinode ...Petitioner
Vs.
The State of Maharashtra & Ors. ...Respondents

WITH
WRIT PETITION NO. 4825 OF 2016

Jalindar Bhausaheb Alhat ...Petitioner
Vs.
The State of Maharashtra & Ors. ...Respondents

WITH
WRIT PETITION NO. 4830 OF 2016

Shantaram Tabaji Vinode ...Petitioner
Vs.
The State of Maharashtra & Ors. ...Respondents

WITH
WRIT PETITION NO. 8509OF 2016

Suhas Sahebrao Vinode ...Petitioner
Vs.

The State of Maharashtra & Ors. ...Respondents

Mr. Y.S. Jahagirdar, Senior Advocate
a/w. Mr. S.M. Sabrad, Advocate for the Petitioners
Mr. P.P. Kakade, AGP for the State
Mr. G.H. Keluskar, Advocate for Respondent No.5
Mr. Dilip More, Advocate for Respondent Nos. 1 to 3

CORAM : SHANTANU S. KEMKAR &
M.S. KARNIK, JJ.
DATED :14TH SEPTEMBER, 2016

P.C. :

Parties through their Counsel. The Petitioners are aggrieved by the communication received from the Pimpri Chinchwad Municipal Corporation informing the Petitioners that in view of the communication received from the CID Department of Police the Petitioners' prayer for grant of development permission cannot be considered. He has drawn our attention to the affidavit filed by Mr. Makarand D. Nikam, Executive Engineer in its Building Permission & Unauthorised Construction Control Department of the Corporation in paragraph Nos. 1 & 3, which reads thus:

"1. I say that Respondent No.5 unable to process the application dated 28.12.2015 submitted by the Petitioners for development of land, because the bogus and fraudulent order

under the provision of the Urban Land Ceiling Act was obtained in respect of the Petitioners land and FIR was lodged with Swargate Police Station vide C.R. No.48 of 2011 in respect of the fabricated order relating to the Petitioner's land.

*3. I say that application dated 28.12.2015 submitted by the Petitioners was not maintainable in law, because the said application for permission is not in the prescribed form along with particulars and necessary documents as per Section 44 and 45 of the Maharashtra Regional & Town Planning Act 1966. I further say that after the receipt of the application dated 28.12.2015, the Respondent No.5 by their letter dated 1.2.2016 requested to the Additional Collector and Competent Authority, Pune Urban Agglomeration, Pune ie. Respondent No.3 to give opinion for sanctioning the development plan in respect of the land owned by the Petitioners. Hereto annexed and marked as **Exhibit"B"** is a copy of the letter dated 1.2.2016 addressed to the Respondent No.3 by Respondent No.5".*

2. Learned Senior Counsel appearing for the Petitioners has also drawn our attention to the reply filed by Ms. Sunanda Bhikalal Gaikwad, the Additional Collector-cum-Competent Authority Urban Land Ceiling, Pune in which the said Authority

has made statement at paragraph 6, which reads thus:

> "6. *I say that since the Petitioner has been exonerated from the criminal charges and in view of the repeal of the Urban Land Ceiling Act, the Petitioner can develop the property as per the prevailing law".*

3. Similarly he has also pointed out the affidavit of Mr. Suresh Kisan Ghadge, Police Inspector, CID, Flying Squad, Pune, in paragraph Nos. 3, 5 & 6 which reads thus:

> ***"3.*** *I state that the Petitioner, herein is named in the FIR that after the thorough investigation it was revealed that no case is made out against the Petitioner, herein.*
>
> ***5.*** *I say that the Petitioner has applied for the development permission for their land bearing Survey No. 93/3, 93/4, 93/5, 03/7B, 93/7C, 93/8, 107/3/1/C at Village Wakad, Tal: Mulshi, Dist: Pune before the Pune Municipal Corporation. I further say that the chargesheet has been filed and under Section 173(8) Cr.P.C., the investigation is going against accused 1] Suresh Borole, 2] Prakash Patil. The said survey numbers are included in the fake ULC order in the aforesaid criminal case. I further say that the*

charge sheet is filed against the accused 1] Sanjay Jain 2] Sanjay Shinde, 3] Sujay Chopade and 4] Atul Panse.

6. *I say that the Petitioner had given Irrevocable Power of Attorney to one M/s Utkarsha Shelters and Estate Private Ltd., and the Development Agreement has been entered into by a registered document duly registered with the Sub Registrar, Pune in respect of S.No.107/3/1/C admeasuring 80 Ares".*

4. Having regard to the stand taken by the Municipal Corporation it is clear that the applications of the Petitioners were not processed because the FIR lodged with Swargate Police Station, Pune and that the applications were not on prescribed forms.

5. Now having regard to the aforesaid affidavits of Ms. Sunanda Gaikward, Additional Collector and Mr. Suresh Ghadge it is clear that there is no legal impediment of registration of criminal case in regard to the grant of permission so far as the present Petitioners are concerned. As we find that the Additional Collector as also the Police Inspector CID have categorically stated

that the Petitioners have been exonerated from criminal charges and the Petitioners can develop the property as per prevailing law. That no case is made out against the Petitioners and after investigation there is no evidence surfaced against the owner of the land in question and that the Petitioners' names have been dropped as accused.

6. In view of the aforesaid we are of the view that these Petitions are deserve to be disposed of by directing Competent Authority of Pimpri Chinchwad Corporation to consider the Petitioners' application without being influenced by the earlier impugned letter. The Petitioners are permitted to file fresh application within 2 weeks from today. On receipt of such application the Pimpri Chinchwad Municipal Corporation shall process the Petitioners' application and take appropriate decision on it in accordance with law as expeditiously as possible, but not later than 2 months from the date of receipt of the copy of this order.

7. Needless to state that the Authority shall consider the

Petitioners' application taking note of the stand taken by the Additional Collector and the Police Inspector CID and without being influenced by the communication, which is impugned in the Petitions. All the Writ Petitions are disposed of accordingly.

(M.S. KARNIK, J.) **(SHANTANU S. KEMKAR, J.)**