

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.7338 OF 2014

M/s. PP Associates.

.. Petitioner

Vs

The Mira Bhayandar Municipal Corporation
and Others.

.. Respondents

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Shri Sandeep M. Pathak i/b Shri Sugandh B. Deshmukh for the
Petitioner.

Shri V.S. Gokhale, AGP for the Respondent Nos.3 to 5.

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CORAM : A.S. OKA & C.V. BHADANG, JJ

DATED : 13TH JANUARY 2016

PC.

1. Heard the learned counsel appearing for the Petitioner and the learned AGP for the third and fifth Respondents. None appears for the first and second Respondents.

2. Learned counsel appearing for the Petitioner invited our attention to the affidavit-in-reply filed by Shri Dilip Gheware, the Town Planner of the first Respondent. He invited our attention to the averments made in the said affidavit and in particular Paragraphs 6 and 7 thereof, which read thus:

“6. I further say that the General Body of the Corporation had resolved by their Resolution No.15 dated 01/07/2009 to reserve the subjected

land for the reservation No.111-A (Play Ground) on land bearing Survey No.193 part, 194 part admeasuring 12,310.00 sq. mtr. No.111-B (Open Vegetable Market) on the land bearing Survey No.193 part, 194 part admeasuring 6,700 sq. mtr. No.111-C (Garden & Talao) on the land 194 part, 200 part admeasuring 6,375 sq. mtrs. And 12 mtr D.P.Road and accordingly after completing the due process of law as per the provisions of Section 37(1) of MRTP forwarded the proposal of modification to the State Government on 14/12/2011 and 20/11/2013. The said proposal of modification is pending for final approval before the State Government.

7. I say that the Corporation will take appropriate decision to grant the permissible TDR/FSI in respect of the remaining portion of land after the approval of the State Government to the proposal of modification.”

3. He has placed on record a Notification dated 5th September 2015 issued by the State Government under Sub-section (2) of Section 37 of the Maharashtra and Regional Town Planning Act, 1966 (for short “The MRTP Act”) . The same is taken on record and marked “A-1” for identification. Learned counsel appearing for the Petitioner states that the said Notification has been issued on the basis of the proposal submitted under Sub-section (1) of Section 37 of the MRTP Act. He states that the Petitioner will be satisfied if a direction is issued to the Municipal Corporation to take appropriate decision in terms of the Paragraph 7 of the said affidavit.

4. In view of the submissions as aforesaid, we dispose of the Petition by passing the following order:

ORDER :

- (a) We direct the authorized representative of the Petitioner to appear before the Town Planner of the first Respondent on 1st February 2016 at 11.00 a.m.;
- (b) A copy of the Notification dated 5th September 2015 as well as an authenticated copy of this order shall be submitted by the Petitioner's authorized representative to the Town Planner of the first Respondent on that date;
- (c) Appropriate decision shall be taken by the First Respondent in terms of the statement made Paragraph 7 of the aforesaid affidavit within a period of two months from 1st February 2016;
- (d) The Petition is disposed of on above terms;
- (e) All concerned to act upon an authenticated copy of this order.