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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9190 OF 2014

Ajit Parsaram Solse & Ors. ...Petitioners

Vs..

State of Maharashtra & Ors. ...Respondents

Mr. Dhairyasheel Sutar for the Petitioners

Mr. V.S. Gokhale AGP for Respondent Nos. 1 to 4

**CORAM : A.S.OKA, &
C.V. BHADANG, JJ.
DATE : JANUARY 05, 2016**

P.C.:

1. Heard learned Counsel appearing for the petitioners and the learned AGP for the respondents. The grievance made in this petition under Article 226 of the Constitution of India is that the applications made by the petitioners in accordance with Section 4 of the Maharashtra Gunthewari Developments (Regularisation, Upgradation and Control) Act, 2001 (the said Act) are not being accepted by the third respondent. The third respondent is admittedly a Planning Authority within the meaning of the said Act.
2. The learned AGP relied upon the affidavit of Ashwini Balasaheb Jirange (3rd respondent) in which a contention has been raised that the time granted to make applications under Sub Section 1 of Section 4 was extended till 30th April, 2014 and the petitioners did not apply within the extended

time. The submission of the learned Counsel appearing for the petitioners is that the extended time was not notified/published and therefore, the petitioners were not aware about the same.

3. We have considered the submissions. We have perused provisions of the Act. Section 3 provides for the regularisation of any Gunthewari development existing on 1st January, 2001. It confers power on the planning authority to regularise gunthewari development as defined in clause (a) of Sub Section 2. Section 4 provides for the procedure for regularisation. Under Section 4, the plot holders are required to make applications for regularisation of the gunthewari development. Sub Section 1 of Section 4 reads thus :

“4. Procedure for regularisation:

(1) The concerned plot-holder shall apply for regularisation of Gunthewari development within a period of six months from the date of the coming into force of this Act or such extended time as the Planning Authority may permit”.

4. Thus, the concerned plot holder is entitled to apply for regularisation of gunthewari development within six months from the date on which the said Act came into force. The said date is 30th April, 2001 as provided in Sub Section 1 of Section 3. However, Sub Section (1) of Section 4 provides

that an application of a plot owner can be entertained within such extended time as the Planning Authority may permit. Therefore, a plot holder who wants to apply for regularisation of Gunthewari development can always make an application to the Planning Authority for extension of time. If a case is made out on the basis of the grounds set out in the application for extension of time, the Planning Authority has a power to extend the time. In fact, by a general order, the Planning Authority had proceeded to extend the time till 30th April, 2014. The petitioners can always make out a case that they were not aware of the said extension of the time. Hence, it is always open for the petitioners to make an application under Sub Section 1 of Section 4 of the Act along with a separate application for grant of extension of time. Such applications will have to be decided by the Planning Authority in accordance with law. Needless to state that the petitioners will have to make out a case for grant of extension of time and that the time cannot be extended mechanically.

5. Hence, we pass following order.

(i) It will be open for the petitioners to make an application under Sub Section 1 of Section 4 of the said Act along with a separate application for extension of time within a period of six weeks from today;

(ii) If such applications are made within the stipulated time, the Planning Authority shall consider the case made out by the petitioners for grant of extension of time. If the Planning Authority is satisfied that a case is made out for grant of extension of time, the Planning Authority shall extend the time. If the time is extended, the Planning Authority shall decide the application for regularisation of Gunthewari development in accordance with law.

(iii) Appropriate orders shall be passed by the Planning Authority on the application of the petitioners for the extension of time within a period of three months from the date of which the application is made by the petitioners.

(iv) All contentions of the parties are kept open.

(v) The Petition is disposed of on above terms.

(C.V. BHADANG,J.)

(A.S.OKA,J.)