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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.8992 OF 2015
WITH
CIVIL APPLICATION NO.3364 OF 2015**

Mr. Firoj Madatalli Patel	Petitioner
Vs.	
The Addl. Collector and Ors.	Respondents

Mr. Vishwajeet V. Mohite for the Petitioner.
Mrs. M.P. Thakur, AGP for the Respondent Nos.1 and 2.
Ms. Sheetal Thakur i/by Mr. Vikram Chavan for the Respondent No.3.
Mr. Umesh R. Mankapure for the Respondent No.5.

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

DATE : 24th FEBRUARY, 2016

P.C.

. **Not on Board. Taken on Board.**

. Heard the learned counsel appearing for the Petitioner. Papers of the Civil Application were produced before the Court. The learned counsel appearing for the Petitioner makes a grievance that this Petition is not being heard for last three months. Therefore, we have immediately taken up the Petition for admission. The challenge is to the stop work notice dated 22nd July, 2015 issued by the Chief Officer of the Karad Municipal Council. A development permission was granted to the Petitioner on 26th August, 2014. The stop work notice has been issued by exercising powers under Section 54 of the Maharashtra Regional and Town Planning Act, 1966 (for short 'the said Act of 1966') by stating

that the Petitioner has committed breach of Condition Nos.4, 8 and 11. Condition No.11 is that if there is suppression of fact or if the Municipal Corporation is mislead while obtaining permission, the permission is liable to be cancelled. Now it is revealed that it is an admitted position that in the draft development plan of the Malkapur Nagar Parishad, the land on which the construction is proposed was admittedly shown under reservation for road. When permission was granted on 26th August, 2014 the draft development plan was already published under Section 26(1) of the said Act of 1966. Therefore, in view of Section 46 of the said Act of 1966, this fact ought to have been taken into consideration by the Karad Municipal Council while granting development permission. In fact, in view of the reservation for the road in the draft development plan, permission could not have been granted in view of Section 46.

2. Therefore, we find nothing illegal with the stop work notice. Accordingly, there is no merit in the Petition and the same is rejected. However, rejection of the Petition will not preclude the Petitioner from making appropriate representation with the Chief Officer of the Karad Municipal Council for withdrawal or cancellation of the stop work notice. In view of the disposal of the Writ Petition, Civil Application No.3364 of 2015 does not survive and the same is disposed of.

(C.V. BHADANG, J)

(A.S. OKA, J)