

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.1129 OF 2013

Kamal Vasant Desai & Ors. ... Petitioners

V/s.

The State of Maharashtra & Ors. ... Respondents

WITH

CHAMBER SUMMONS NO.98 OF 2013

Nagari Niwara Welfare Association (Reg.) ... Applicant

In the matter between

Kamal Vasant Desai & Ors. ... Petitioners

V/s.

The State of Maharashtra & Ors. ... Respondents

...

Dr. Virendra Tulzapurkar, Senior Advocate a/w Swanand Ganoo i/b.
M/s. Kango & Co. for the petitioner.

Ms. Geeta Shastri, Asstt. Govt. Pleader for respondent nos.1 to 3.

Mr. Ulhas Naik for the applicant in Chamber Summons No.98 of
2013.

...

**CORAM : M. S. SANKLECHA &
A. K. MENON, J.J.**

DATE : 7th JULY, 2016.

P.C.:

1. This petition challenges the communication dated 19th July, 2012 issued by respondent no.2 (Revenue Minister) to respondent

no.3 (Collector) and the communication dated 25th July, 2012 issued by the Collector to the Petitioner. By the above two communications the permission granted to the Petitioner to transfer an amenity plot to an Hospital was stayed pending reconsideration by the State Government on submission of a report by the Collector.

2. The communication dated 19th July 2012 by the Revenue Minister to the Collector inter alia directed him to submit a report in respect of land which was allotted by the State Government to the petitioners being sold by the petitioners without the permission of the State Government in respect of the amenities plots. The communication dated 25th July 2012 by the Collector to the petitioner placed reliance on the letter dated 19th July 2012 of the Revenue Minister and stayed the permission / approval granted under the letter dated 20th June 2012 till the report is submitted to the State Government on further enquiry.

3. The petitioners' grievance is that the State Government has not taken any decision after having stayed the communication / permission dated 20th June, 2012 granted by the Collector. This was by issuing the impugned letter dated 19th July, 2012 to the Collector and in turn the Collector issuing letter dated 25th July 2012 to the Petitioner. The only prayer on behalf of the petitioner is that the State Government should take a decision on the permission dated 20th June, 2012 and its stay by order dated 25th July, 2012 should end at the earliest. We find that the orders of the Revenue Minister as well as the Collector dates as far back as July, 2012. No action

though has been taken by them to decide on temporary stay of the permission granted to the petitioner.

4. Ms. Shastri appearing on behalf of the State does not dispute the fact that a decision on the permission granted on 20th June, 2012 has to be taken and the stay cannot continue indefinitely. In fact, on instructions she states that the Collector has already submitted the necessary report dated 31st July, 2012 as contemplated in letter dated 19th July, 2012 to the State Government. She further states that the Commissioner would on receipt of the representation by the petitioner and the intervenor before us, will hear the parties and submit his report to the Revenue Minister with a copy to the parties who filed representation. However, she submits the entire process will take some time.

5. It cannot be disputed that the stay of the order dated 20th June, 2012 cannot be in perpetuity. Thus the authorities have to take a decision within some time frame as the permission already granted is in abeyance since July, 2012. Therefore, on the petitioners and the intervenor before us submitting their representation to the Commissioner within two weeks from today, the Commissioner will decide the issue and submit a report within a period of four weeks of the representation being filed. The copies of the report submitted to the Revenue Minister would be furnished to the parties who make representation before the Commissioner. This would enable the parties, if aggrieved, to agitate the issue before the Revenue Minister to assist him in taking a final decision. Needless to state, the Commissioner will grant a hearing to the persons who make

representation before him, prior to submitting his report to the Minister. Similarly, the Minister will take a final decision within a period of 12 weeks on receipt of the report from the Commissioner after considering the representation and granting a personal hearing to parties before passing a reasoned order.

6. All contentions of the parties i.e. the petitioners and the intervenor i.e. applicant in the Chamber Summons are kept open.

7. The petition is disposed of in the above terms. In view of the above directions, the Chamber Summons is disposed as infructuous.

(A. K. MENON, J.)

(M. S. SANKLECHA, J.)