

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**O.O.C.J.****PUBLIC INTEREST LITIGATION NO.29 OF 2015**

...
 Pramod Babanrao Karande ...Petitioner
 v/s.
 The State of Maharashtra & ors. ...Respondents

...
 Mr.Prasad B. Kulkarni for the Petitioner.
 Ms.Geeta Shastri, Addl.G.P. for Respondents Nos.1,2,4 & 5.
 Ms.Trupti Puranik for Respondent No.3-BMC.

...
CORAM : A.S.OKA &
A.A. SAYED, JJ.

DATED : 12 JULY 2016

P.C.:

Heard the learned Counsel for the Petitioner. The challenge in this PIL is to the order of allotment dated 31 October 2003 passed by the State Government in respect of a plot situated at Ambivali, Taluka Andheri, Mumbai, which is the subject matter of this Petition. The present Petition has been affirmed on 31 April 2015.

2. There is an affidavit-in-reply filed by Shri Bhaiyyasaheb Ramrao Behere, Tahsildar (Revenue) on behalf of the State Government. It is pointed out in the reply that a Letter of Intent dated 31 October 2003 was issued to the Chief Promoter of the allottee-society in respect of the said plot. On 24 August 2004, the State Government passed an order of

allotment of the plot to the said society. The order records that 17 members of the proposed society were found to be eligible. The affidavit further records that the allotment order dated 24 August 2004 directs the society to pay the market value fixed on the basis of ready-reckoner of 2004 at the rate of Rs.25,800/- per sq.mtrs. It was stated that the price quoted is the provisional price. In paragraph 12, it is stated that a sum of Rs.1,90,00,000/- has been deposited by the said society and the possession has been handed over to the society on 6 April 2005. In paragraph 13, it is stated that the difference of Rs.31,68,960/- was payable by the society. Paragraph 15 of the affidavit records that the society paid the total amount of Rs.2,21,68,960/- (Rs.1,90,00,000/- + Rs.31,68,960/-). It is stated that further payment of Rs.21,64,080/- was made by the society on 5 May 2010 on account of grant of FSI.

3. The submission of the learned Counsel appearing for the Petitioner is that the order of allotment is made of a valuable public property without following a fair and transparent process and in breach of Rules 26 and 27 of the Maharashtra Land Revenue (Disposal of Government Land) Rules 1971. His submission is that such illegality should not be tolerated.

4. As stated earlier, the present Petition was affirmed on 31 April 2015 for challenging the Letter of Intent dated 31 October 2003 and the order of allotment dated 24 August 2004. As stated in the affidavit-in-reply, huge amounts have been paid by the allottee-society to the State Government 10 years back. We have perused the averments made in the Petition as far as the delay is concerned. The Petitioner is relying upon the representation dated 21 April 2013. In paragraph 9, it is alleged that the Petitioner received the information for filing the Petition in October 2014.

5. Therefore, in our view, the Petition suffers from gross delay and laches. The allottee-society has drastically changed its position by paying the substantial amounts as narrated by Shri Behere. Therefore, this is not a fit case to entertain the PIL. However, we may make it very clear that this judgment and order should not be construed to mean that this Court has held the action of the State Government of allotting the plot of land to the said society as legal and proper.

(A.A. SAYED, J.)

(A.S.OKA, J.)