

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 1452 OF 2014

Mrs. Farida Randip Patel & Ors.	.. Petitioners
V/s	
State of Maharashtra & Anr.	.. Respondents

Mr. Navroz Seervai, Senior Advocate with Mr. Aniket Nimbalkar i/b
AZB & Partners for the petitioners.
Mr. Milind More, A.G.P. for the State.

**CORAM: DR. MANJULA CHELLUR, C.J. &
M.S. SONAK, J.**

DATE : 24th OCTOBER 2016

P.C.:

Heard Mr. Seervai, learned senior counsel for the
petitioners.

2. Apparently the petitioners before us are aggrieved with the regulations existed at the relevant time of filing of the writ petition. According to them, the redevelopment of the property in terms of the latest Development Plan under the Development Control Regulations for Greater Mumbai may come in the way of sanctioning the proposed plan the petitioners intend to submit on the ground of existence of a filling and service station in the property in question. According to them, way back in 2013 HPCL vacated the

premises and therefore even the alleged restriction with regard to redevelopment of sites of existing filling and service station of petrol, diesel, compressed natural gas in terms of DC Regulation 69 would not come in the way. Therefore, the petitioners are entitled for a favourable order similar to the one passed by this Court on 4th October 2016 in Writ Petition No. 2992 of 2014. In the other case, the facts were entirely different from the present case. In that case, already there was a plan submitted by the petitioner which came to be rejected on the ground that such plan would come in the way of DC Regulation 69, which prohibits development of site if the site in question had existing filling and service station as stated above.

3. We are afraid that the present petition is premature one since the petitioners have never approached the concerned authority bringing on record how DC Regulation 69 will not apply to their case. Further, if at all they have any similarity to the case referred to above, they are always at liberty to annexe a copy of the order to the application for sanction of the plan and submit to the authority that their case be considered in the light of the observations of this Court. In such a situation, in the wisdom of the authority, who has to analyse the factual situation, has to inquire into the matter in detail and apply its mind to the facts with reference to the existing bye-laws and also the observations of the Court, if any, on the amended DC Regulation 69.

4. Accordingly the writ petition is disposed of. All contentions are kept open.

(M.S. SONAK, J.)

CHIEF JUSTICE