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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION No.3891 OF 2015

Smt. Sunmita w/o Vinod Bandre & another.

-Vrs.-

State of Mah. Through its Secretary, Urban Development Department, Mumbai & 5
others.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. P.A. Abhyankar, counsel for petitioners.
Mr. Rao, AGP for respondent nos.1,3,4 & 5.
Mr. M.I. Dhattrak, counsel for respondent no.2.

CORAM : B.P. DHARMADHIKARI AND
P.N. DESHMUKH, JJ.

DATED : 17th March, 2016

Petitioners who have proceeded with some construction contrary to Development Plan on their plot have approached this Court seeking a direction to State Government and to Municipal Council to carry out minor modification under Section 37 of MRTP Act. This Court on 10.7.2015 granted ad interim relief and the constructions then put in has been saved. It is admitted position before this Court that thereafter petitioners have not proceeded further with their construction activity.

Shri Abhyankar submits that in reply filed before this Court respondent no.2 Municipal Council has pointed out that on 27.8.2015 it has rejected the proposal to effect any minor modification.

Shri Abhyankar seeks leave to amend petition as according to him there is power with respondent no. 1 State to independently order minor modifications.

Shri Dhatrak, learned counsel for respondent no.2 as also learned AGP has opposed this proposition.

We find that the Municipal Council which is planning authority has not found any minor modification necessary.

In this situation, we grant petitioner leave to file fresh petition on same cause of action and also question the resolution passed by respondent no. 2 in this connection.

The liberty granted shall not prejudice any of the defences available to respondents in the matter.

The petitioners to file such petition, if any, within a period of four weeks from today. The interim order granted on 10.7.2015 to continue till then.

It is made clear that petitioners shall not add to their construction until further express permission from this Court.

Petition is accordingly disposed of. No costs.

JUDGE

JUDGE