

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

WRIT PETITION No.4744 OF 2014

Shri Kedar s/o Gangadhar Agrawal -Vrs.- The State of Mah. Thr. Its
Secretary, Urban Development Dept., Mantralaya, Mumbai and 3 others.

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

Court's or Judge's orders.

Mr. Kaptan, Senior Counsel, counsel for petitioner.
Mr. M.K. Pathan, AGP for respondent no.1.
Mr. G.G. Mishra, counsel for respondent no.2.
Mr. S.C. Mehadia, counsel for respondent nos. 3 & 4.

CORAM : B.R. GAVAI AND P.N. DESHMUKH, JJ.

DATED : 17th FEBRUARY, 2016

On 20.01.2016 we had passed an order directing the respondent no. 2 to file an affidavit to explain as to how, when the application was filed u/s 44 of the MRTP Act, 1966, the order was passed under the Maharashtra Gunthewari Development (Regularization, Upgradation and Control) Act, 2001.

In the additional affidavit filed on behalf of the petitioner it is contended that the State Government has issued a communication dated 07.11.2007 directing the authorities to consider only such of the applications which were received prior to 30.11.2007 and not to consider any application filed thereafter.

It is contended by Mr. Mehadia, learned counsel appearing for respondent nos. 3 & 4, that the said communication is only a direction to the Nagpur Improvement Trust and it cannot be made applicable universally. Mr.

Kaptan relied on the provisions of Section 4 of the Maharashtra Gunthewari Developments (Regularization, Upgradation and Control) Act 2001 in support of the contention that the application which was filed after 30th November, 2007 could not have been taken into consideration.

Mr. Mishra, the learned counsel appearing on behalf of the respondent no.2, submits that the respondent no.2 is willing to reconsider the issue and will also consider the issue with regard to the question as to whether the respondent no.2 has a jurisdiction to decide the application filed before the Commissioner.

In that view of the matter, the petition is disposed of on the basis of the statement made by the learned counsel for the respondent no.2. It is, however, made clear that all issues including the issue of jurisdiction shall be considered by the Commissioner and respective parties are at liberty to raise those issues before respondent no. 2. The respondent no. 2 shall reconsider and decide the issue within a period of two months from today.

Since the Commissioner is to reconsider all the issues raised, the order impugned in the present petition dated 1.9.2012 shall stand quashed and set aside. However, till the Commissioner decides the issue on remand after reconsidering and for a further period of two weeks therefrom, the status quo as on today shall continue to operate.

JUDGE

JUDGE