

NEENU VERMA
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This site for the mashakhors was closest to the blocks in which the petitioners acquired the premises. The site, however, was not immediately adjacent to the petitioners' premises.

The plan also indicated three areas for parking marked as 'A' 'B' and 'C'. Between each of these parking lots shops/booths are located. Plot 'A' is on the extreme left and plots 'B' and 'C' are to its right in that order.

The petitioners are aggrieved by the fact that the site which was original parking lot 'A' had been converted by an amendment in the plan as a platform for mashakhors. The petitioners' grievance therefore is that they purchased the premises at the auction keeping in mind the proximity of the site for mashakhors to their premises. The basis now stand destroyed on account of the site for mashakhors being shifted to the extreme left. Their further grievance is that this confers an unfair advantage to those who own premises in the proximity of parking site 'A'. It is contended therefore that the respondents are estopped from changing the site for the mashakhors.

3. The submission is not well founded. Each of the site plans contains a note which reads *“HSAMB (Haryana State Agricultural Marketing Board-respondent No.2) reserves the right to make any addition, alteration and amendment in the drawing if needed in future.”* Respondent No.2, therefore, reserved to itself the right to amend the plan. However, our attention has not been drawn to any provision of law or to any circular or policy that prevents respondent No.2 from changing the plan. We will presume, however,

that this does not confer upon respondent No.2 the right to change the plan arbitrarily.

4. It is also important to note that prior to the impugned modification, respondent No.2 had modified the original plan by shifting the site for mashakhors adjacent to parking 'C'. Having the site for mashakhors at parking 'C' was far more beneficial to the petitioners than at the original site for mashakhors which as we mentioned earlier was at the extreme right and at the top northern side. The respondents contend that the site for mashakhors was shifted to location adjacent to parking 'C' at the request and on the representation of one of the petitioners themselves. The petitioners deny the same. Be that as it may, the fact is that there was no objection to the same by any of the petitioners. Admittedly, this location is far more beneficial to the petitioners. The location is much closer to the premises of petitioners No. 1 to 3, than it was in the original plan. It is in fact directly opposite the premises of petitioners No.4 and 5. This location has not been changed. It remains. The petitioners therefore had the benefit of the change in location brought about by the first amendment to the site plan.

5. The petitioners are therefore not adversely affected by an additional area being allocated for the site for mashakhors which is where parking 'A' was proposed in the original site plan. Except to the extent that this location also benefits owners of other shops which are closest to this additional site for mashakhors. In other words, what they in fact seek is to retain the benefit of a changed site and to deny the benefit of the additional site to the owners of other

premises. For such a purpose we are, in any event, not inclined to exercise our extraordinary jurisdiction under Article 226 of the Constitution of India.

6. It was then contended that there is no need to have such an area for mashakhors as there is no demand for the same.

7. That is a matter with which the petitioners are not concerned. Assuming the same to be correct, it is the official respondents who would be affected by the same.

8. It was lastly contended that whereas there were three parking lots in the original site plan there is only one parking lot in the proposed site plan. It is contended that this is contrary to the resolution of the official respondents. The official respondents on the other hand contend that there is adequate parking.

9. This issue has admittedly not been raised in the petition. Only bare averments are made that there is inadequate parking. This is not merely a question of law. It is essentially a question of fact which ought to have been pleaded with particulars.

10. If the petitioners desire to shift to another shop/unit, they must make an application for the same to the official respondents in accordance with law.

11. The petition is accordingly dismissed.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

(ARUN PALLI)
JUDGE

May 04, 2016
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