

**IN THE HIGH COURT OF JUDICATURE
AT BOMBAY**

BENCH AT AURANGABAD.

WRIT PETITION NO.1812 OF 2016

Nilesh S/o Kishanprasadji
Tapadiya and others. ... Petitioners.

Versus

The State of Maharashtra
and others ... Respondents.

...

Mr.A.S.Bajaj, advocate for the petitioners.
Mr.C.S.Kulkarni, A.G.P. for the State.
Mr.M.D.Narwadkar, advocate holding for
Mr.M.V.Deshpande, advocate for Respondent Nos.2
and 3.
Mr.S.S.Rathi, advocate for Respondent Nos.5 to 7.

...

**CORAM : S.V.GANGAPURWALA AND
S.M.GAVHANE, JJ.**

Date : 27.11.2017.

PER COURT :

1. Initially the Writ Petition is filed seeking directions against the Respondent No.3 to drop the proceedings in respect of revision of lay out plan of Gat No.106 situated at village

Kautha, Taluka and District Nanded, so also the other reliefs. During pendency of the proceedings, the Corporation decided the matter with regard to the revised lay out rejecting the objections of the petitioner and also rejected the petitioners lay out as claimed by the petitioners.

2. The moot contention of the petitioners is with regard to the access from Gat No.106, the petitioners being owners of Gat No.107.

3. Learned counsel for Municipal Corporation submits that the petitioners have alternate remedy before the State Government to put forth their grievance with regard to the access from Gat No.106 for the sanction of lay out.

4. Mr.Rathi, learned counsel for Respondent Nos.5 to 7 also echoes the contention of Mr.Narwadkar, learned counsel for the Municipal Corporation.

5. Mr.Bajaj, learned counsel submits that after the Municipal Corporation appeared and it sought time and in the meantime, sanctioned revised lay out. The conduct of the Municipal Corporation is deprecable. In view of the fact that petitioners have an alternate remedy as contended by the Respondents and further that the appellate authority is expert with regard to planning, we relegate the parties to avail the alternate remedy. The petitioners may approach the appellate authority and may raise all contentions as raised in the present Writ Petition. The Respondents will have every right to put forth their stand on the merits of the matter. In case the appeal is filed within three (3) weeks from today, the same be considered to be within limitation.

6. All contentions of respective parties are kept open.

7. The authority shall decide the appeal expeditiously, preferably within a period of three (3) months from the date of receipt of

appeal after hearing all parties.

8. Till the appeal is decided by the authority, the order dated 2.5.2016 shall remain in force.

9. The Writ Petition is disposed of. No costs.

(S.M.GAVHANE, J.)

(S.V.GANGAPURWALA, J.)

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