

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

BENCH AT AURANGABAD.

WRIT PETITION NO.3624 OF 2016

T.Sudarshan Reddy and
others. ...Petitioners.

Versus

The Administrator,
CIDCO, Aurangabad
and another. ... Respondents.

...
Mr.K.J.Suryawanshi, advocate for the petitioners
Mr.S.S.Gangakhedkar, advocate for Respondent
No.1.
Mr.V.A.Sarwade, advocate for Respondent No.2.
...

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

Date : 08.11.2017.

PER COURT :

1. The petitioners assail the letter dated 5.11.2015, issued by the Respondent No.1, directing the petitioners to get No Objection Certificate from the Society and to execute the fresh agreement.

2. Mr.Suryawanshi, learned counsel for the

petitioners submits that in fact, No Objection Certificate was granted by the Society in the year 2008. The agreement was entered into between the deceased Sher Khan Pathan Khan and the petitioner No.1 for transfer of the plot, however, before the contract would be concluded Sher Khan Pathan Khan died. The petitioner No.3 is the legal heir of deceased Sher Khan Pathan Khan. The Cidco has to grant permission to the legal heir of deceased Sher Khan Pathan Khan.

3. Mr.Gangakhedkar, learned counsel for Respondent No.1 submits that there is no agreement of petitioner No.1 with petitioner No.3. Cidco has asked for fresh agreement and the No Objection in favour of petitioner No.3 by the Respondent No.2.

4. Mr.Sarwade, learned counsel for Respondent No.2 submits that No Objection Certificate produced by the petitioners is forged and fabricated document. The Society has not given such No Objection Certificate. The petitioners are not entitled to be recognised as

members of Respondent No.2.

5. We had asked the learned advocates for the petitioners and Respondent No.2 to point out any provision in the byelaw suggesting that for transfer of the plot of the Society, No objection of the Society is necessary. No such provision is pointed out to us. It appears that earlier Society had assailed the factum of membership to be given to deceased Sher Khan Pathan Khan. The Divisional Joint Registrar had passed order in favour of deceased Sher Khan Pathan Khan.

6. Be that as it may, we are not required to go into the said aspect. The petitioners only assailed the letter of the Cidco, directing them to produce No Objection Certificate from the Society. As no provision is pointed out, wherein No Objection Certificate is required to be issued by the Society for transfer of the plot, we set aside the said condition imposed by the Cidco.

7. It is stated that the petitioners would execute the fresh agreement, thereupon the Cidco

may consider the application of the petitioners for transfer of plot in accordance with Rules.

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

(S.M.GAVHANE, J.)

(S.V.GANGAPURWALA, J.)

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