

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4085 OF 2007

Mohd. Zahed s/o Mohd. Hafeez
& another

Petitioners

Versus

The State of Maharashtra
& others

Respondents

Mr. Akram Inamdar, advocate holding for Mr. S.S. Kazi, advocate for petitioners.

Mr. S.B. Joshi, A.G.P. for respondents 1 and 6.

Mr. M.S. Deshmukh, advocate for respondent no. 2.

Mr. P.V. Barde, advocate for respondent no. 4.

CORAM : R.M.BORDE &

SMT. VIBHA KANKANWADI, JJ.

DATE : 7th DECEMBER, 2017

PER COURT:

1. Heard.

2. Petitioners are objecting to construction raised by respondents 4 and 5 on City Survey No. 1810 and 1810-A at Savada, Tq. Raver, Dist. Jalgaon.

3. Petitioners contend that the properties have been prescribed for limited user under the Sanad granted by the State Government and cannot be put to use for commercial purpose. It is alleged that the concerned respondents have carried out construction in violation of the building permission accorded by the Municipal Council. Apart from raising illegal construction, it is contended

that the concerned respondents have encroached upon part of the public road.

4. In order to verify the allegations levelled by petitioners, we called upon the Chief Officer, Municipal Council, Savada to verify the situation and present an affidavit. Accordingly, affidavit has been presented by the Chief Officer. It is recorded in the affidavit that the Municipal Council had sanctioned building plan in favour of the concerned respondents on 16.12.2006. It is also clarified in the affidavit that with a view to verify the allegations levelled by petitioners in the instant petition, junior engineer, Municipal Council, Savada was deputed to conduct survey of construction site and to cause measurement of the property and to report as to whether the concerned respondents have encroached upon the public road or have caused any construction over City Survey No. 1810-A. It is reported by the junior engineer, after due verification, that the concerned respondents have raised construction on City Survey No. 1810 only and no construction is raised on City Survey No. 1810-A and the said plot is kept completely vacant. It is further reported that the distance of building from the southern side is 6.20 meter and from the western side is 1.80 meter and as such, no encroachment on public road was noticed and the allegations levelled by petitioners are false.

5. Considering the affidavit-in-reply presented on behalf of respondent no. 2, we do not find any substance in the allegations levelled by petitioners. In exercise of powers conferred under Article 226 of the Constitution of India, no interference is called for in the instant petition. Petition is devoid of substance hence

stands rejected.

6. The amount deposited by petitioners in pursuance of the directions issued by this Court, shall be transferred to the account of High Court Legal Services Sub Committee at Aurangabad.

SMT. VIBHA KANKANWADI
JUDGE

R.M.BORDE
JUDGE

dyb