

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10746 OF 2016

Girish s/o Ramakant Kharosekar ... **Petitioner**
Age 45 years, Occu: Service,
R/o C-3, Himali Society,
Erandwana, Pune-4

VERSUS

1. The State of Maharashtra
Through its Secretary
Urban Development Department,
Mantralaya, Mumbai
2. The City and Industrial
Development Corporation Ltd.
Nirmal Bhavan, 2nd Floor,
Nariman Point, Mumbai 400 021
Through its Managing Director
3. City and Industrial Development ... **Respondents**
Corporation Ltd.,
New Aurangabad
Through its Chief Administrator

Mr. Suresh M. Kulkarni, Advocate for Petitioner
Mr. A. R. Kale, A.G.P for the respondents State
Mr. A. S. Bajaj, Advocate for Respondent Nos.2 and 3.

**CORAM : R. M. BORDE &
K. L. WADANE, JJ.**

DATE : 12th April, 2017

JUDGMENT (Per R. M. Borde, J.):

1. Rule. Rule made returnable forthwith. With the consent of the parties, taken up for final disposal.
2. Issue raised in the present petition is no more

res integra and is covered by the decision of this Court in Writ Petition Nos. 3219/2016 (Vijaykumar Nilkanthrao Solunke Vs. The State of Maharashtra), decided on 26th October, 2016.

3. The grievance raised by the petitioner in the instant petition is in respect of allotment of land to the extent of 12.5% of the acquired area in accordance with the policy framed by the Government.

4. In the earlier round of litigation, in Writ Petition No. 5084/1999, presented by the petitioner herein, this Court quashed the order dated 21.09.2010 passed by respondent No.2 i.e. the Managing Director, CIDCo Mumbai and it was directed to allot 12.5% of the acquired land to the petitioners in the name as appearing in the Award dated 23rd December, 1996. It was further directed that the parties shall comply with the legal requirement of the Board Resolution dated 23rd March, 1992 before the possession is handed over.

5. In the award statement, name of promoter society Suubhamkaroti Griha Nirman Sanstha has been recorded. According to the petitioner, the society was not

registered due to technical difficulties, posed by the Co-operation Department. Members of the proposed Society have tendered undertaking on the bond papers, which are annexed to the petition, stating therein that the society has not been registered and as such they do not have any existing interest in the subject matter. The proposed members have also stated in the affidavit that they do not have any objection if the piece of plot is handed over to the Chief Promoter, i.e. the petitioner herein.

6. Since the society has not been registered, there shall be is no difficulty in handing over the plot to the Chief Promoter, however, in order to safeguard the interest of the CIDCO and to avoid further litigation, certain conditions need to be incorporated.

7. The petitioner shall file indemnity bond, duly motorized, indemnifying the CIDCO in the event of occurrence of any litigation or raising of any claim by any individual in respect of the plot in question. The petitioner has already placed on record the undertaking, the same is marked 'X' for identification. The petitioner shall tender duly verified indemnity bond with CIDCO recording same text within a period of

seven days from today.

8. Subject to tendering of indemnity bound as referred above, the CIDCO shall execute the lease deed in favour of the petitioner without insisting for registration certificate of the society and list of members.

9. With the directions as above, writ petition is disposed of. Rule is accordingly made absolute. In the facts and circumstances of the case, there shall be no order as to costs.

(K. L. WADANE, J.)

(R. M. BORDE, J.)

JPC