

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

92 WRIT PETITION NO. 11098 OF 2015

NEW VIKAS MAINTENANCE SAHKARI GRUH NIRMAN SANSTHA THROUGH
ITS SECRETARY RAJU SHIVAJI SATPUTE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Petitioner : Mr. Atul M. Karad And Mr. Girish
Kulkarni

AGP for Respondent State: Mr. P. S. Patil

Advocate for Respondent No.2 : Mr. Ajay S. Deshpande

**CORAM : S. V. GANGAPURWALA &
K. L. WADANE, JJ.**

DATE : 13th February, 2017

ORDER:

1. Mr. Karad, the learned counsel for the petitioner states that under a consent award, the subject land was acquired by CIDCO. The layout forms part of the same. As per terms of the consent award, portion admeasuring 1750 sq. ft. was reserved for Children Play Ground. The Plots were re-allotted to the various plot holders at nominal rate of Re.1/-. Now the respondents are putting a compound wall over the Children Play Ground and want to sell it as a plot. The same is not permissible as the proper procedure as required under the Maharashtra Regional and Town Planning Act is not followed.

2. Mr. Deshpande, the learned counsel for

respondent No.2 submits that layout in question was tentative layout. An area 1750 sq. ft. for Children Play Ground was too inadequate and now the CIDCO has proposed to give a larger area i.e. 1835 sq. mt. for Children Play Ground. The same would be approximately half acre and more conducive for Children Play Ground. The learned counsel submits that in any case, the layout is a tentative lay out. The said changes are permissible. The Members of the society would stand to gain as a larger area would be developed as Children Play Ground. Moreover the area shown in the layout as Children Play Ground was abutting the road and which was also hazardous for the children.

3. We have considered the submissions.

4. The Allotment of plots is made by CIDCO as per the lay out (Page No.42). The same is writ large from the terms of the consent award dated 17.11.1990. If any changes are to be made in the said lay out, necessarily, the Society will have to be taken onto confidence.

5. Considering the above, we pass the following order:

O R D E R

(1) Before taking any action with regard to the change of the location of the Children Play Ground as appearing in the layout(page 42), the respondents shall adhere to the provisions of law and shall also take the petitioner Society in confidence.

(2) The petitioner Society may put forth its objection with the respondents. The respondents shall consider the objection of the petitioner and pass appropriate order on the objection before taking any further steps.

6. Writ petition accordingly disposed of. No costs.

(K. L. WADANE, J.)

(S. V. GANGAPURWALA, J.)

JPC