

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.910 OF 2017
IN
WRIT PETITION NO.2458 OF 2017**

Aaradhya Developers Partnership Firm through
its Partners ..Applicant

In the matter of
Nilesh Jaywant Karne ..Petitioner

Vs.
Maharashtra Industrial Development Corporation
(MIDC) & Ors. ..Respondents

Mr. L. P. Lote for the Petitioner.
Mr. Amol Joshi for the Applicant.
Mr. Prashant Chawan a/w Ms. Chaitali Khandare i/b Navdeep Vora &
Associates for the MIDC/Respondents.

**CORAM: V.M. KANADE &
C. V. BHADANG, JJ.**

APRIL 11, 2017.

P.C.

. The Applicant has filed application for vacating the direction given by us in Writ Petition No.2458/2017. By the said order we had directed the MIDC to demolish two buildings which were constructed next to RX-28 and 29.

2. The learned counsel on behalf of the Applicant submitted that he is the owner of land which is situated in the goathan area and which does not belong to the MIDC. He has further submitted that he had obtained due permission from village Ajde Gram Panchayat in 2004. He, therefore, submitted that the direction which is given by this Court for demolition is being misused and the building of the Applicant constructed after taking permission from the Competent Authority is being demolished.

3. The question as to whether the building of the Applicant is being constructed on the goathan land or on the land belonging to MIDC is a disputed question of fact and, as such, we cannot decide the said disputed question in the Writ Petition.

4. It is open for the Applicant to move the Competent Authority and apply for interim relief after establishing his title and after producing valid permission for construction of a building.

5. Reserving the said right of the Applicant, the Application is disposed of. All contentions of the Applicant are kept open.

6. If a suit is filed, the Trial Court shall consider the case of the Applicant on merits and in accordance with law and shall not be influenced by the order passed by this Court on 16/3/2017.

7. We direct the MIDC not to demolish the building of the Applicant for a period of 2 weeks after this order is uploaded.

8. In the meantime, liberty is granted to the Applicant to approach the appropriate forum. In the meanwhile, the Applicant shall not carry out any further construction.

9. All contentions of the MIDC and the original Petitioner are kept open.

(C. V. BHADANG, J.)

(V.M. KANADE,J.)