

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

The South Indian Education Society ...Petitioner
Vs.
Navi Mumbai Municipal Corporation & Ors. ...Respondents

**CORAM : NARESH H. PATIL &
M.S. KARNIK, JJ.
DATED : 13TH FEBRUARY, 2017**

Division Bench of this Court passed an order dated 27th July, 2016 [Coram: Shantanu Kemkar & Makarand Karnik, JJ.] (at page 77 in para 6) this Court observed and passed an order as under:

“6. In view of the aforesaid submissions, we dispose of the Civil Application directing the Corporation to consider the Petitioners' claim without insisting upon clause No.1 of the communication dated 6th June, 2016(Exhibit A)”.

2. Learned Counsel appearing for the Petitioner submits that a Review Petition was filed. The Division Bench of this Court by order dated 5th October, 2016 [Coram: Ranjit More & Smt. Anuja Prabhudessai, JJ] (at page No.84) had passed following order:

“1. Heard Mr. Apte, the learned senior counsel for the Petitioners CIDCO.

2. No ground is made to review the order dated 8th September, 2016. hence, the review petition is dismissed”.

3. The Petitioner preferred Contempt Petition against CIDCO.

4. Learned Counsel appearing for CIDCO submitted that a Special Leave to Appeal is pending in the Apex Court filed by the CIDCO. In the Special Leave Appeal (C) Nos. 32897 – 32898 / 2016 the Apex Court passed following order dated 9th December, 2016:

“Learned senior counsel appears on behalf of the sole

respondent on caveat prays for and is granted four weeks' time to file reply. He submits that the respondent – Society shall not proceed in the contempt proceedings till the next date of hearing. List these matters on 18th January, 2017”.

5. Learned Counsel appearing for the Respondent submits that the Petitioner had argued in Civil Application No.1815 of 2016 stating therein that in respect of clauses 2 and 3 of the impugned communication he is not making any grievance as he has filed Writ Petition No.7458 of 2014.

6. Paragraph 4 of the order in Civil Application No. 1815 of 2016 [Coram: Shantanu Kemkar & Makarand Karnik, JJ.] (at page 77)is as under:

“4. According to the learned Senior Counsel appearing on behalf of the Petitioner in regard to the requirement as stated in clause 2 and 3 as stated above, he is not making any grievance since in regard to the said grievances the Petitioner has filed another Writ Petition No.7458 of 2014 and he reserves his right to seek appropriate

direction in that Writ Petition. As regard to clause No.4 he submits that in fact no objection certificate for the Tree authority is already ready as it would be clear from the certificate (Exhibit D) filed along with Civil Application”.

7. Learned Counsel appearing for the Petitioner submit that inspite of the directions issued by this Court CIDCO is not complying with the order of this Court.

8. In view of the orders passed by this Court as above and fact that an SLP is pending in the Apex Court no interference is called for. There is no merit in the Petition. It is rejected.

(M.S. KARNIK, J.)

(NARESH H. PATIL, J.)