

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3231 OF 2015

Sir Jamsetjee Jejeebhoy Charity Fund and ors. .. Petitioners
Vs.
Lonawala Municipal Council, Lonawala and ors... Respondents

Mr.Rohan Cama i/b Wadia Ghandy & Co., for the Petitioners.
Mr.A.A.Garge, for Respondents No. 1 & 2.
Mr.Vikas Mali, AGP for State.

**CORAM : NARESH H. PATIL &
M.S.KARNIK, JJ.**

24th MARCH, 2017

P.C. :

. In the year 2004, Division Bench of this Court
(Coram : A.P. Shah Actg. C.J. & S.U.Kamdar, J.) delivered
judgment dated 20/07/2004 in Writ Petition No.2998 of 1995
and passed operative order in the following terms.

“In the present case the land was reserved for Holiday Home under the first revised plan on 20th January, 1978. After service of the notice under sec.127 the appropriate authority failed to take any steps within six months for acquisition of the property. Therefore, reservation has lapsed and land must be deemed to be released from reservation. We, therefore, make the rule absolute in terms of prayer clause (a). It is, however, clarified that permission to develop the property sought by the petitioner shall be considered in the light of the relevant bylaws and

regulations of the Municipal Council.

Parties to act on an ordinary copy of this order duly authenticated as true copy by the Sheristedar/P.S. of this Court.”

2. Learned Counsel for the petitioners submits that thereafter petitioners applied for development of the property. Thereafter, respondent - Council failed to take any steps. Contempt Proceeding No. 423 of 2007 was filed by the petitioners. By order dated 24/11/2008, Contempt Proceeding was disposed of by this Court. Learned Counsel submits that so far, petitioners have not received any reply or order from the respondent- Council on the development permission.

3. It is unfortunate to notice that for last 13 years, the party is praying for his rights to get the plan sanctioned after getting land de-reserved. It is informed that the Council authorities are waiting for notification to be issued by the State consequent to the judgment delivered by the High Court. The order of the Court is clear. Subject land was deemed to be de-reserved from acquisition proceedings and it is clarified that

permission to develop the property sought by petitioners shall be considered in the light of the relevant bylaws and regulations of the Municipal Council.

4. Needless to mention that it is for the Council now to take appropriate decision.

5. Learned Counsel appearing for the petitioners submits that in the light of the subsequent development, application will be submitted to the Council. In case such application is received, we direct that Council to place the application of the petitioners before the Committee appointed by the High Court in Public Interest Litigation No. 93 of 2007 within 2 weeks.

6. In case, such compliance is done, we direct the Committee to take appropriate decision on its own merits within further 6 weeks time from the date of receipt of such proposal on its own merits.

7. It is clarified that we have not expressed any opinion on merits.
8. Parties to act upon authenticated copy of this order.
9. Writ Petition is disposed of in the aforesaid terms.

(M.S.KARNIK, J.)

(NARESH H. PATIL, J.)