

rrpillai

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3280 OF 2015**

Karad Weigh Bridge Pvt. Ltd. & Anr.	... Petitioners
Vs.	
State of Maharashtra & Ors.	... Respondents

.....

Mr. Girish B. Kedia for the Petitioner.
 Ms. Aparna Vhatkar, AGP for the Respondent no.1.
 Mr. Ankit Kulkarni i/b. Little & Co. for the Respondent nos 2 to 6.
 Mr. Pradeep D. Dalvi for the Respondent no. 8.
 Mr. K. K. Waghmare for the Respondent no. 9.

.....

**CORAM : A.S. OKA & A.K. MENON, JJ.
DATE : 26th APRIL, 2017**

P.C.

1. Heard the learned Counsel appearing for the petitioners, the learned Counsel appearing for the respondent nos. 2 to 6, the learned Counsel appearing for the respondent no. 8 and the learned Counsel appearing for the respondent no.9. According to the case of the petitioners, a notice was published by the respondent no. 2 - Maharashtra Industrial Development Corporation (MIDC) inviting tenders for allotment of Plot No P-6 in Karad Industrial Area for carrying on activity of Commercial Weigh Bridge and Warehouse. The first petitioner participated in the process and was granted lease in respect of Plot P-6.

2. The grievance in this petition under Article 226 of the Constitution of India is that the respondent nos. 7 to 9 who are holding different plots in Karad Industrial Area have illegally installed Weigh Bridges on their respective plots and they are using the Weigh Bridges for Commercial purposes. The stand of the respondent nos. 8 and 9 before this Court is that they are not using the Weigh Bridges for Commercial purposes. The respondent no. 7 has not appeared before the Court.

3. The second respondent by filing affidavit in reply has relied upon the notices issued in May, 2016 under section 53 of the Maharashtra Regional Town Planning Act, 1966 (MRTP Act) calling upon respondent nos. 8 and 9 to demolish the unauthorized structure of Weigh Bridge and to discontinue its unauthorized use within one month from the date of the notice. It is stated in the reply that the respondent no. 2 has called upon the respondent no. 7 to stop using Weigh Bridge for Commercial purpose. This affidavit is filed on 10th June, 2016. Further steps taken on the basis of notices issued have not been set out. However, copies of the notices under Section 53 of the MRTP Act issued to the respondent nos. 8 and 9 on 26th May, 2015 have been annexed to the affidavit.

4. A copy of the notice addressed to the respondent no. 7 calling upon him to stop use for Commercial purposes is also annexed. It is

not in dispute that respondent no.2 - MIDC is the planning authority within the meaning of the MRTP Act for Karad Industrial Area. The plots held by the respondent nos. 7 to 9 are within the said area.

5. There cannot be any dispute that the structure of weigh bridge cannot be erected without obtaining a permission of the respondent no. 2 under section 45 of the MRTP Act. The notices annexed to the reply filed by the respondent no. 2 allege that respondent nos. 8 and 9 have erected the structure of Weigh Bridge without obtaining such permission and that they are using the same for Commercial purposes. The learned Counsel appearing for the respondent nos. 8 and 9 stated before the Court that the said respondents are not using the Weigh Bridge for Commercial purpose.

6. Considering the stand taken in the affidavit in reply by respondent no. 2, we pass the following order : -

(a) We direct respondent no. 2 to take further steps on the basis of the notices issued to respondent nos. 8 and 9 under Section 53(1) of the MRTP Act in accordance with law;

(b) If the notices which are annexed to the affidavit are

not served to the respondent nos. 8 and 9, we direct the respondent no. 2 to immediately serve notices to the respondent nos. 8 and 9;

(c) We direct respondent no. 2 to take action against respondent no. 7 in accordance with law, if it is found that respondent no. 7 is using the Weigh Bridge on the plot no. P-27-2 for commercial purposes;

(d) Needless to add that no action shall be taken against the respondent no. 7 without giving him opportunity of being heard in the matter;

(e) Needless to add that even if the respondent nos. 8 and 9 have obtained permission for the construction of structure of Weigh Bridge or if the construction made by them is regularised by the respondent no. 2, the said respondents shall not be entitled to use Weigh Bridge for Commercial purposes.

(A.K. MENON, J)

(A.S. OKA, J)