

Sequeira

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

PUBLIC INTEREST LITIGATION NO. 64 OF 2016

Mr.Dhananjay Vithal Gawade .. Petitioner
Vs
Vasai Virar Municipal Corporation and others. .. Respondents

Mr.Shailesh Redekar a/w Mr.Anil D'Souza, for the Petitioner.

Ms.M.P.Thakur – AGP, for Respondent State.

Mr.A.G.Damle – Senior Advocate a/w Ms.Swati Sagvekar, for
Respondent Nos.1 and 2.

Mr.Sanjay Jain a/w Ms.Sandhya Jain a/w Mr.Vasim Shaikh i/b M/s
Pravin Mehta & Mithi & Co., for Respondent No.3.

Mr.Shailendra S.Kanetkar, for Respondent No.4.

Mr.Chetan Agrawal, for Respondent No.6.

*CORAM : DR.MANJULA CHELLUR, C.J.
AND M.S.SONAK, J.*

DATE : NOVEMBER 23, 2017.

P.C.:

Exception affidavit to the Inspection report is placed on
record.

2. Heard learned counsel for Respondents and we have gone through the objections filed to the exception. The grievance raised in the Petition is with regard to shifting of a plot from one place to another place, within the same layout meant for recreation ground.

3. The Petitioner contended that the requirement to permit such shifting is that the new earmarked site must be within 200 metres from the original plot. The distance was got marked and measured by department of Respondent No.1 Corporation, to which Petitioner was objecting therefore a commission was appointed who executed the commission through the Architect, M/s.Shetgiri and Associates, Mumbai. Now the grievance seems to be that the aerial distance cannot be taken into consideration.

4. On verification of facts it is seen, the distance between the recreation ground originally being ear-marked to the new shifted recreation ground is 195 metres and if it is measured on the ground in the normal way it would be 138 metres Aerial, and by road it is 195 metres. The super technical objection raised in the public interest litigation according to us, does not really reflect or affect any interest, so far as public in general are concerned, since even if it is beyond 200 metres, the public from one area to another area could even walk the distance to reach the plot.

5. In the present case even on technical grounds there

cannot be such objections. In that view of the matter, we are of the opinion in the light of clarification placed on record with regard to the distance issue, both by the private Architect and through department, being within permissible parameters, nothing remains for our consideration in the matter. Accordingly, proceedings are closed. Any interim order on record stands vacated.

M.S.SONAK, J.

CHIEF JUSTICE