

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

**WRIT PETITION NO. 4181 OF 2015
WITH
CIVIL APPLICATION NO. 1689 OF 2015
IN
WRIT PETITION NO.4181 OF 2015**

M/s. Akshayshilp Developers ... Petitioner.

Versus

The State of Maharashtra
and others ... Respondents.

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Mr. Datta H. Pawar for the Petitioner-Applicant
Mr. S.M. Kamble for Respondent No.3.
Mr. Amit B. Borkar for Respondent No.4.
Mr. N.C. Walimbe, AGP for State.

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***CORAM : Smt. Vasanti A Naik &
Riyaz I. Chagla, JJ.***

DATE : 7th November, 2017.

P.C. :

By this writ petition the petitioner seeks a direction against the respondent Nos. 1 to 3 to revoke the development permission granted in favour of the respondent Nos. 4 and 5 pertaining to the property in respect of which the registered development agreement was executed in favour of the petitioner.

According to the petitioner, a development agreement was executed by the owner in favour of the petitioner on 07.05.1998. It is submitted that though the petitioner was entitled for grant of permission to construct on the said property, the corporation

authorities have wrongly granted the permission for construction of the building to the respondent Nos. 4 and 5. It is submitted that though a complaint was made by the petitioner to the respondent Nos. 1 to 3 for revocation of the development permission granted in favour of the respondent Nos. 4 and 5, the same was not decided.

The learned counsel for the Corporation states by referring to an order passed by the City Engineer, Kolhapur Municipal Corporation dated 27.02.2015 that the complaint made by the petitioner was decided. It is stated that the development permission was granted in favour of the respondent Nos. 4 and 5 in accordance with the provisions of the Maharashtra Regional and Town Planning Act. It is submitted that the petitioner has filed a civil suit against the respondent Nos. 4 and 5 and some others for specific performance of contract on the basis of the agreement allegedly executed by the owner in favour of the petitioner.

In the circumstances of the case, a direction cannot be issued against the respondent Nos. 1 to 3 to cancel the development permission granted in favour of the respondent Nos. 4 and 5 as a civil dispute between the parties is pending in the suit filed by the petitioner against the respondent Nos. 4 and 5 and some others. When rival claims are made over the property in question, it would not be proper to issue directions against the Corporation to revoke the development permission granted in favour of the respondent Nos. 4 and 5. the petitioners are free to take steps for seeking the relief before the appropriate forum, if so advised.

In the result, we dismiss the writ petition with no order as to costs.

With the dismissal of the writ petition, civil application No.1689/2015 also stands disposed of.

(Riyaz I. Chagla J)

(Smt. Vasanti A Naik, J)