

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2983 OF 2016

Saral Sunil Talwar	...	Petitioner
Vs.		
The Under Secretary, Government of Maharashtra, Mantralaya, Mumbai & Ors.	...	Respondents

Mr. Tushar N. Sonawane for the Petitioner.

Mr. V.M. Mali, A.G.P., for Respondent Nos.1, 2 and 4-State.

Mr. Rohit P. Sakhadeo for Respondent No.3-Municipal Corporation.

CORAM : NARESH H. PATIL &
DR. SHALINI PHANSALKAR-JOSHI, J.J.

DATE : 3RD APRIL 2017.

P.C. :

1. Heard Mr. Sonawane, learned counsel for the Petitioner, Mr. Mali, learned A.G.P. for the Respondent-State, and, Mr. Sakhadeo, learned counsel for Respondent No.3.

2. By this Petition, the Petitioner challenges the Notification bearing G.R. No. TPS / 1812 / 160 / PK.58 / 12 / Development No.27 / 12 / EP Sanctioned / NV / 13 dated 2nd March 2015, issued by Respondent No.1-State, thereby sanctioning the Draft Development Plan submitted by Respondent No.3-Municipal Corporation, and prays for following reliefs:-

- “(a) By way of suitable writ or order, be pleased to quash and set aside impugned notification bearing G.R. No.TPS/1812/160/PK.58/12/Development No.27/12/EP Sanctioned/NV/13 dated 2.3.2015 passed by the Respondent No.1 to the extent by which the sanction to EP-72 has been refused to include it into residential zone from green zone u/s. 31(1) of the said Act, 1966 as proposed, annexed at Exh. C and declared the same to be illegal and void to the extent of EP-72 and after setting aside the same, be pleased to accord the sanction to green zone mentioned in EP-72 to be included into residential zone as sought for in the notification dated 18.8.2009 and pass necessary order to that effect.*
- (b) Pending the hearing and final disposal of the present proceedings, be pleased to stay the effect, implementation and operation of G.R. dated 2.3.2015 annexed at Exh. C in its entirety as well as in respect of the stay to be granted to the decision of the respondent in G.R. dated 2.3.2015 with regard to the decision on EP-72 by which the sanction has been refused.*
- (c) In the alternative, the parties may be directed to maintain status-quo.*
- (cc) By way of suitable writ or order of this Hon'ble Court, the direction by way of writ of mandamus may kindly*

be issued by directing respondent No.3 Pimpri-Chinchwad Municipal Corporation to submit the proposal to respondent No.1 for the purpose that the area being no development zone including the said land EP-72 situated outside the red flood line shown in the sanctioned development plan of Pimpri-Chinchwad to be included in the residential zone with a view to make the continuous residential area be available for proper development, in view of the order dated 15.7.2015 passed by respondent No.1 u/s. 37(1) of Maharashtra Regional Town Planning Act by its Government Resolution No.TPS-1815/428/PK-138/15/NV-13.”

3. This Petition came to be amended due to subsequent developments in the matter. The Petitioner's land was shown in 'Green Zone', while Respondent No.1-State sanctioned the Development Plan for Pimpri-Chinchwad.

4. The learned counsel appearing for Respondent No.3-Municipal Corporation has placed on record affidavit of Mr. Prakash R. Thakur, Deputy Director, Town Planning, in the office of Respondent No.3-Municipal Corporation. The Deponent, in paragraph No.4 of the said affidavit, has stated as under :-

“4. The area / part of the Survey No.17, Hissa No.3/1 and Survey No.18, Hissa No.2, which are falling between the blue flood line and red flood line and beyond the red flood line in the plan annexed hereto is proposed

to be included in the residential zone as per the notification dated 28/11/2016. Hereto annexed as Exhibit B is the copy of Sanctioned Development Plan (relevant portion covering Survey No.17 and 18). The copy is for the convenience and ready reference of this Hon'ble Court. The plan also shows and includes certain reservations.”

5. The learned counsel for Respondent No.3-Municipal Corporation submits that, at the behest of Respondent No.3-Municipal Corporation, proceedings under Section 37 of the Maharashtra Regional and Town Planning Act, 1966, for modification of the Development Plan have already been initiated. The necessary parties were noticed and hearing is kept on 5th April 2017. Admittedly, the Petitioner too has received the notice.

6. The learned counsel appearing for the Petitioner has placed reliance on the Report submitted by an officer appointed by Respondent No.1-State, under Section 31(2) of the MRTP Act, while the Development Plan was sanctioned.

7. In the facts of the case, without expressing any opinion, we observe that, in view of the subsequent development and the statement of learned counsel appearing for Respondent No.3-Municipal Corporation, subsequent to filing of the affidavit, we dispose of this Petition with liberty.

[DR. SHALINI PHANSALKAR-JOSHI, J.] [NARESH H. PATIL, J.]