

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****CIVIL APPLICATION NO. 1870 OF 2017
IN
WRIT PETITION NO. 14108 OF 2016**

City & Industrial Development
Corporation Ltd.

... Applicant

In the matter between :

Abdul Jabbar S/o. Asadulla Khan

... Petitioner

Versus

The State of Maharashtra and Ors.

... Respondents

Mr. Sarthak Diwan i/by Mr. Ashutosh Kulkarni for the applicant.

Mr. Sandeep Marne for respondent nos. 2 and 3.

None for the writ petitioner.

**CORAM : SHANTANU KEMKAR &
PRAKASH D. NAIK, JJ.
OCTOBER 09, 2017**

P.C.:

Learned counsel for the applicant submits that he has served the writ petitioner. Despite service, none appears for the writ petitioner.

2. Heard learned counsel for the applicant CIDCO and learned counsel for respondent no. 2 Navi Mumbai Municipal Corporation in Civil Application.

3. By the said application, the applicant is seeking modification/recall of the order dated 30.1.2017 passed by this Court in Writ Petition No. 14108 of 2016.

4. According to learned counsel for the applicant, the applicant CIDCO is the competent authority for grant of permission for change of use from restaurant to chicken shop. It is stated that on the basis of some mis-information and misconception, a statement was made on behalf of CIDCO that the Competent Authority for grant of permission for change of use from restaurant to chicken shop would be the Municipal Corporation. In the circumstances, the aforesaid order dated 30.01.2017 has been passed in the said writ petition.

5. It has been stated that pursuant to the said order now the CIDCO has considered the application of the writ petitioner and granted requisite permission Exh.J filed along with the Civil Application. A statement has been made by the learned counsel for the applicant and learned counsel for the Corporation that if the order dated 30.1.2017 is allowed to stand as it is, there may be misconception that the CIDCO is not the competent authority and the competent authority for grant of the said permission is Municipal Corporation. In order to avoid that misconception, this application has been filed.

6. As per the submissions made by the learned counsel for the applicant and learned counsel for respondent no.2 Municipal Corporation, we modify the order dated 30.01.2017 to the extent of recalling the following portion :

“The stand of respondent no. 4 CIDCO is that the application is required to be submitted by the petitioner to respondent no. 2 who is the Competent Authority for grant of permission for change of the use from restaurant to chicken shop”

In place of the above portion, the same be read and treated as under :

“The stand of respondent no. 4 CIDCO is that CIDCO being lessor would decide grant of NOC about the change of user after receipt of information from NMMC as to whether as per the DCR of NMMC, the change of use of the plot in question can be granted from the Restaurant to the other commercial use.”

7. In the rest of the order, wherever respondent no. 2 is mentioned, the same be read and treated as respondent no. 4.
8. Order stands corrected accordingly.

(PRAKASH D. NAIK, J.)

(SHANTANU S. KEMKAR, J.)