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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.10559 OF 2013**

Mr.Vishwas Sitaram Nirbhavane and Anr.	... Petitioners
Vs.	
The State of Maharashtra through Principal Secretary, Urban Land Development.	... Respondents

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Mr. Sanjeev Sawant a/w. Mr. B. K. Barve, Mr. Sandeep Barve and Mr. Santosh Wagh i/b. M/s. B. K. Barve & Co. for the Petitioner.
Ms. Aparna D. Vhatkar, AGP for the Respondent no. 1.
Mr. Ashutosh M. Kulkarni for the Respondent no. 2.
Mr. Umesh R. Mankapure for the Intervener.

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**CORAM : A.S. OKA & A.K. MENON, JJ.
DATE : 18th APRIL, 2017**

P.C.

1. Heard learned Counsel for the petitioner. The first substantive prayer in this petition under Article 226 of the Constitution of India is for issuing a Writ of Mandamus to the City and Industrial Development Corporation of Maharashtra Limited [for short "CIDCO"] to make allotment of a plot admeasuring 1040 sq.mtrs.

2. The first petitioner is claiming to be the President of Mata Ramai Phal and Bhaji Bazar Samiti which is stated to be a Charitable Organisation of Schedule Caste members. The second petitioner is

claiming to be its committee member. The petitioners are relying upon a letter of allotment dated 1st August, 2008 for claiming that CIDCO had agreed to allot a plot admeasuring 1040 square meters to the said organisation. Reliance is also placed on a note dated 17th June, 2008 which was allegedly approved on 24th July, 2008 by the Managing Director of CIDCO for allotment of a plot. The contention is that for the area of 1040 square meters, the petitioners have made the payment of a sum of Rs.3,21,800/-, but the allotment was made only of an area of 640 square meters. The allegation is that the action of CIDCO is arbitrary.

3. The learned Counsel appearing for the petitioners has taken us through the documents annexed to the petition and a reply filed by the second respondent. He submitted that the petition is filed by the petitioners for the benefit of 40 members of the said organisation. He submitted that a note was put up by the administrator of CIDCO suggesting allotment of a plot admeasuring 1000 square meters to the said organisation. The note dated 18th January, 2008 is relied upon by the learned Counsel which is signed by the administrator of CIDCO on which approval has been granted by the then Managing Director of CIDCO. He invited our attention to the correspondence exchanged between CIDCO and the State Government. He submitted that CIDCO

has not complied with the requisition of the State Government. He invited our attention to the letter dated 1st June, 2013 submitted by the petitioners to the Managing Director of CIDCO. He submitted that as full area agreed to be allotted was not allotted, the said organisation has not made further payments in terms of the letter of allotment dated 22nd December, 2008. He has, therefore, urged that in terms of the decision of the Managing Director which is dated 24th July, 2008, a Writ of Mandamus be issued against CIDCO to allot a plot to the petitioner.

4. We have given careful consideration to the submissions. In the entire petition, the petitioners have not stated whether Mata Ramai Phal and Bhaji Bazar Samiti is a registered organisation. In fact it is not their case that it is a registered organisation. Though in paragraph 3 it is claimed that the petition is filed for benefit of 40 members of the said organisation, a list of the said 40 members is not annexed to the petition. Their names have not been disclosed in the petition. It is not case made out by the petitioners that any resolution has been passed for authorising the petitioners to file this petition on behalf of the Organisation or its 40 members.

5. We have carefully perused the documents annexed to the petition Exhibit-B1 is a note prepared by the administrator of CIDCO, on a

request made by the said organisation for allotment of a plot admeasuring 1000 square meters. It is stated in the note that the plot falls in R-C Category and therefore, necessary decision will have to be taken after obtaining opinion of the Chief Economist.

6. The remark of the Chief Economist of CIDCO is that the market rate of the plot was Rs.2727/- per square meter. The administrator in his note dated 17th June, 2008 proposed that, as members of the said organization belong to backward class, a sympathetic approach needs to be adopted. A typed copy of the said note at Exhibit B-5 does not indicate that said proposal was approved by the Managing Director. Only remark of 24th July, 2008 made by the Managing Director is “as approval”. There is further remark dated 25th July, 2008 that the proposal should be examined and put up. The letter dated 1st August, 2008 [Exhibit-C to the petition] does not record that a particular plot of a particular area has been sanctioned. It only records that CIDCO administration has sanctioned one plot and an allotment letter will be issued after completing the process.

7. In the letter dated 26th August, 2008 issued by the said organization to the Administrator of CIDCO it is contended that the Joint Managing Director and Managing Director have approved the proposal for granting an area of 1000 square meters to the said

organization. Exhibit-E is the letter of allotment dated 22nd December, 2008 in respect of Plot No.2B admeasuring 640 square meters. The letter of allotment was in the name of the first petitioner in his capacity as the President of the said organisation. As per the letter of allotment, premium amount of Rs.7,05,600/- was payable on or before 30th January, 2009 and second installment of Rs.7,05,600/- was payable on or before 22nd March, 2009. It is an admitted position that the said organisation did not pay the amount as stated in the letter of allotment and only a sum of Rs.3,21,800/- has been paid till date.

8. On 5th January, 2009 a letter was addressed by the first petitioner to the Managing Director of CIDCO. There is no grievance made in the said letter as regards the allotment of plot admeasuring 640 square meters. The grievance is that the administrator of CIDCO at Nashik tried to pressurize the petitioner to accept the plot having an area of 594 square meters. In fact, by the said letter, the said organization thanked CIDCO for granting a plot having an area 640 square meters. A request was made to reduce the amount by the said letter. The grievance that an area of 1040 square meters ought to have been allotted is made first time by addressing a letter dated 4th July, 2011.

9. As stated earlier, firstly we are not satisfied that petitioners have

a locus to file this petition. Secondly, the said organisation committed a gross breach of the terms and conditions of the letter dated 22nd December, 2008. The amount which was payable by 22nd May, 2009 has not been paid by the said organisation.

10. Considering the aforesaid circumstances, this is not case where petitioners' should be allowed to invoke Writ Jurisdiction under the Constitution of India. Hence, the petition is rejected.

(A.K. MENON, J)

(A.S. OKA, J)