

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3683 OF 2016

Ali Asgar Petiwala.

..Petitioner.

Versus

State of Maharashtra & Others.

..Respondents.

Mr. Nirman Sharma, Mr. Rohan Lavkumar, Ms. Mitali Harish i/b
Haresh Jagtiani & Associates for the Petitioner.

Mrs. M. M. Deshmukh, APP for the State.

Mr. H. V. Kamarswami for Respondent No. 2.

Coram : Ranjit More &

Smt. Revati Mohite Dere, JJ.

Date : **March 15, 2017.**

P. C. :

1. Heard learned Counsel appearing for the Petitioner, the learned Counsel appearing for the Respondent No.2 and learned APP for the State. We have also heard the learned Counsel appearing for the Intervenor – Gregory Mathais, the auction purchaser.

2. Respondent No. 2 claims to be the representative of Intervenor. By the impugned order, Competent Authority is directed to hand over possession of the subject closed parking slot to Respondent No.2. The Petitioner claims to have purchased the said parking slot from the original owner in the year 2000. the sole grievance of the Petitioner is that though he is owner of the said parking slot, neither he has been given any

notice nor he has been heard before passing the impugned order by the MPID Court and therefore the impugned order is in violation of principles of natural justice.

3. The learned Counsel appearing for the Respondent No.2 and also appearing on behalf of the Intervenor, having taken instructions, fairly states that he has no objection if the impugned order is quashed and set aside and matter is remanded back to the MPID Court for afresh disposal of 2nd respondent's application. Learned APP submitted that appropriate orders may be passed.

4. In the light of above especially when Respondent No. 2 and Intervenor have given concession, in our opinion, the interest of justice would be subserved, if the impugned order is quashed and set aside. Accordingly, we quash and set aside the impugned order and remand the matter to MPID Court. The MPID Court shall decide 2nd respondent's application being Miscellaneous Application No. 371 of 2016 afresh after giving an opportunity of hearing to the Petitioner as well as to the Intervenor. Needless to mention that we have not gone into merits of the matter and MPID Court shall decide the said application of Respondent No.2 independently, on its own merits and in accordance with law. All points and contentions of the respective parties are kept open. The MPID Court is directed to decide the said application as expeditiously as possible and at

any rate within the period of six months from the date of receipt of a copy of this order. The Petitioner is at liberty to claim copy of the application filed by Respondent No. 2 before the MPID Court.

5. Writ petition stands disposed of.

[Smt. Revati Mohite Dere, J.]

[RANJIT MORE, J.]