

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

WRIT PETITION NO. 12168 OF 2017

Tanaji L. Patil
V/S
State of Maharashtra
and others

....Petitioner.

....Respondents.

**WITH
WRIT PETITION NO. 12365 OF 2017**

Jagsish Chaudhary
V/S
State of Maharashtra
and others

....Petitioner.

....Respondents.

**WITH
WRIT PETITION NO. 12537 OF 2017**

Mahadev Ramchandra Pawar
V/S
State of Maharashtra
and others

....Petitioner.

....Respondents.

**WITH
WRIT PETITION NO. 12538 OF 2017**

Sunil Budhaji Bhope
V/S
State of Maharashtra
and others

....Petitioner.

....Respondents.

**WITH
WRIT PETITION NO. 12539 OF 2017**

Madhav Dinkar Chavan
V/S
State of Maharashtra
and others

....Petitioner.

....Respondents.

**WITH
WRIT PETITION NO. 12540 OF 2017**

Mahadev Babu MhatrePetitioner.
V/S
State of Maharashtra
and othersRespondents.

**WITH
WRIT PETITION NO. 12542 OF 2017**

Dharma Rama JoshiPetitioner.
V/S
State of Maharashtra
and othersRespondents.

**WITH
WRIT PETITION NO. 12543 OF 2017**

Sirvi Vikas Seva SansthaPetitioner.
V/S
State of Maharashtra
and othersRespondents.

**WITH
WRIT PETITION NO. 12619 OF 2017**

Harinderkumar H. ThakurPetitioner.
V/S
State of Maharashtra
and othersRespondents.

....

Mr. Swaraj S. Jadhav a/w Mr. Sarnath Sariputta for the Petitioners in all writ petitions.

Mr. B.B. Sharma for Respondent No.5-CIDCO in writ petition Nos.12168/2017, 12365/2017, and 12537/2017.

Mr. N.C. Walimbe, AGP in writ petition Nos. 12168/2017, 12537/2017 and 12619/2017.

Mr. V.N. Sagare, AGP in writ petition No.12365/2017, 12538/2017, 12539/2017, 12540/2017 and 12543/2017.

Ms. Nisha Mehra, AGP in writ petition No.12542/2017.

....

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

DATE : 29th November, 2017.

PC. :

Since the issue involved in these writ petitions is almost identical and similar prayers are made therein, they are heard together and are decided by this common order.

By these writ petitions, the petitioners have challenged the action on the part of the CIDCO of asking the petitioners to demolish the temple structures without following the due process of law.

It is submitted on behalf of the petitioners that as per the Government Resolution, dated 05.05.2011 and the subsequent Government Resolutions issued from time to time, it would be necessary for the CIDCO, the Corporation or any other authorities to follow the procedure provided in the Government Resolutions before taking any steps for the demolition of the temples. It is submitted that it would be necessary for the concerned local bodies or authorities to seek the report from the district level committee or the Municipal Corporation level committee and/or any other committee that is provided in the Government Resolutions before seeking the demolition of the temples. It is submitted that the temples are categorized under the Government Resolutions and some temples are protected. It is submitted that though the temples involved in these writ petitions could be protected, CIDCO has, without taking any steps in accordance with

law and the Government Resolutions dated 05.05.2011 and 05.11.2016, sought to demolish the temples.

The learned counsel for the respondent-CIDCO states that if this Court so directs, CIDCO would take appropriate steps in accordance with law and the Government Resolutions issued from time to time while seeking the demolition of the temples. It is submitted that the nature of the temples and the period since which they are in existence would be taken into consideration by following the procedure as laid down in the Government Resolutions. It is fairly admitted that the procedure laid down in the Government Resolutions was not followed before the impugned notices were issued.

In view of the statements recorded herein above, we dispose of the writ petitions by permitting the CIDCO to take appropriate steps only in accordance with law viz. Government Resolution dated 05.05.2011 and 05.11.2016. The petitioners are permitted to make representations to CIDCO within three weeks. The representations of the petitioners should be decided by CIDCO only after following the procedure, as laid down in the aforesaid Government Resolutions. If required by CIDCO, the petitioners could be afforded an opportunity of personal hearing. Since apparently the procedure as laid down in the Government Resolutions was not followed by the CIDCO before serving the impugned notices on the petitioners, the impugned notices are quashed and set aside. It is needless to mention that if CIDCO does not favourably consider the representations made by the petitioners and is of the view that the temples are liable to be

demolished, CIDCO could take steps for demolition of the same only after serving notices on the petitioners. The orders of CIDCO pertaining to its decision for demolition of the temples, if any, should be communicated to the petitioners before CIDCO takes any coercive steps for demolition of the same. Order accordingly. No costs.

(Riyaz I. Chagla J)

(Smt.Vasanti A Naik, J)