

psv

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CIVIL APPELLATE JURISDICTION**  
**WRIT PETITION NO.691 OF 2015**

Shri. Salil Dinesh Indulkar & Ors. ... Petitioners  
Vs.  
The Commissioner of Kolhapur  
Municipal Corporation & Ors. ... Respondents

Mr. Tejesh Dande i/b. M/s. Tejesh Dande & Associates for the  
Petitioners.  
Mr. Abhijit M. Adagule for the Respondent No.1.  
Mr. A.I. Patel, AGP for the Respondent Nos.3 and 4.

**CORAM : A.S. OKA &**  
**SMT. VIBHA KANKANWADI, JJ.**

**DATE : 20<sup>th</sup> JULY, 2017**

**P.C.**

1. Heard the learned Counsel for the petitioners and the learned Counsel for the 1<sup>st</sup> respondent. The learned AGP represents the 3<sup>rd</sup> and 4<sup>th</sup> respondents.
2. A notice dated 6<sup>th</sup> May 2013 was issued to the predecessor of 2<sup>nd</sup> and 3<sup>rd</sup> petitioners purporting to be a notice under Section 51 of the Maharashtra Regional and Town Planning Act, 1966 (for short, "MRTP Act"). A reply dated 24<sup>th</sup> May, 2013 was submitted by the petitioners to the said notice. On 30<sup>th</sup> May 2013, another notice was issued by the 1<sup>st</sup> respondent calling upon the petitioners to remain present for hearing.
3. On 22<sup>nd</sup> October 2014, an order was passed by the Commissioner of the 1<sup>st</sup> respondent on the said show cause notice dated 6<sup>th</sup> May 2013. It is stated that about the demarcation of 12 meters wide road, a

decision will be taken after disposal of civil suit filed by the petitioners. It is further observed that if in the plan submitted by the petitioners, the area covered by 12 meters wide road is excluded, the proposal submitted by the petitioners can be considered.

4. The only submission made by the learned Counsel for the petitioners is that a direction be issued to the 1<sup>st</sup> respondent/Municipal Corporation to decide the show cause notice dated 6<sup>th</sup> May 2013 in accordance with law.

5. The learned Counsel appearing for the 1<sup>st</sup> and 2<sup>nd</sup> respondents pointed out that in the reply submitted by the petitioners on the basis of notice dated 30<sup>th</sup> May 2013, they have contended that till disposal of the civil suit filed by them, no order should be passed. He pointed out that the civil suit has been decreed on 8<sup>th</sup> May 2015 and in fact, an appeal preferred by the 1<sup>st</sup> respondent is pending before the District Court against the said decree.

6. The notice dated 6<sup>th</sup> May 2013 is a notice issued in exercise of powers under Section 51 of the MRTP Act calling upon the petitioners to show cause as to why development permission should not be revoked. Such a show cause notice cannot be kept pending for years and the same is required to be decided in accordance with law notwithstanding pendency of the proceeding in the Civil Court.

7. Therefore, we dispose of this petition by passing the following order:-

**ORDER**

- i) We direct the 1<sup>st</sup> respondent to give an opportunity of being heard to the petitioners on the notice dated 6<sup>th</sup> May 2013 and to pass appropriate order in accordance with law on the said show cause notice as expeditiously as possible and in any event within a period of two months from the date on which this order is uploaded;
- ii) We direct the petitioners or their representative/s to remain present before the 1<sup>st</sup> respondent on 7<sup>th</sup> August 2017 at 11.00 a.m. for fixing the schedule of hearing;
- iii) We make it clear that we have made no adjudication on the merits of the show cause notice as well as other pending proceedings;
- iv) All other questions on that behalf are kept open.

(SMT. VIBHA KANKANWADI, J)

(A.S. OKA, J)