

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 2016 OF 2014

Chetan Associates and anr. .. Petitioners
Vs.
The State of Maharashtra and ors. .. Respondents

Mr.Zain Najamessani a/w Mr.Sahil Harjani i/b M/s.Desai & Diwanji,
for the Petitioners.

Mr.Milind More, Addl, G.P. for Respondent No.1 – State.

Ms.K.H. Mastakar, for Respondents No. 2 to 6 – MCGM.

Mr.Amogh Singh a/w Mr.D.P. Singh, for Respondent No.7.

**CORAM : B.R.GAVAI AND
M.S.KARNIK, JJ.**

DATE : 22nd AUGUST, 2017

P.C. :

. The petitioners have filed the present Petition seeking a direction to respondents No. 2 to 6 to proceed further with the notices issued under the provisions of section 53(1) of the Maharashtra Regional and Town Planning Act, 1966 (for short 'MRTP Act') and take necessary action for demolition of all unauthorised additions/alternations made by the members of respondent No.7 – Society.

2. Mr.Zain - learned Counsel appearing on behalf of the petitioners submits that when the Corporation has issued notices under the provisions of section 53 of MRTP Act, the Corporation must take the same to the logical end.

3. Mr. Amogh Singh - learned Counsel appearing on behalf of the respondent No.7 on the contrary submits that the present petitioners are the developers who have constructed the building in question and sold the flats to the members of the Society. He further submits that unauthorised construction, if any, is made by the petitioners themselves and present Petition is filed as a counter-blast to the Suit filed by respondent No.7 for getting the conveyance executed.

4. It is not in dispute that the building in which the members of the respondent No. 7 reside is constructed by the present petitioners. Learned Counsel for the petitioners also does not dispute the fact regarding the pendency of the Suits between the parties.

5. We are of the considered view that the Petition involves various disputed questions of fact and law which cannot be gone into

by exercising extra ordinary jurisdiction of this Court under Article 226 of the Constitution of India. The said questions can very well be agitated in the civil Suits pending before the City Civil Court and decided by the said Court.

6. In any case, extra ordinary writ jurisdiction of this Court cannot be permitted to be used for settling the private dispute between the developer and purchaser of the flat. Writ Petition is Rejected.

(M.S.KARNIK, J.)

(B.R.GAVAI, J.)