

pdp

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1721 OF 2016
WITH
CHAMBER SUMMONS NO. 76 OF 2017

Siddharth Shikshan Prasarak Mandal

.. Petitioner

Versus

The Municipal Corporation of Gr. Mumbai and ors.

.. Respondents

Ms. Gayatri Singh, Sr. Advocate i/by Mani Prakash / Zaman Ali for petitioner.

Ms. Geeta Shashtri, Addl. Govt. Pleader for State.

Mr. Ram Apte, Sr. Advocate a/w Ms. Pallavi Thakar for MCGM.

Mr. J. G. Reddy for applicants in CHSW/76/2017.

CORAM: NARESH H. PATIL &
DR. SHALINI PHANSALKAR-JOSHI, JJ.

APRIL 18, 2017.

P.C.

1. The petitioner, a Charitable Trust, is running a Primary School by name “Padminibai Gaikwad” and a Secondary School by name “Vidya Vikas Vidyalaya” situated at CTS No.6/1B/2 in Mandale Village. It is the case of the Corporation that the school structure is situated on the DP road. The Corporation desires to construct a DP road and, therefore, steps were

taken by the Corporation accordingly. The question is of the rehabilitation of the petitioner-school.

2. The learned counsel appearing for the petitioner submits that the schools are running in slum area. It caters to the need of poor children. Its existence is needed in the nearby vicinity. The schools were established in 1989 and since then they are catering to the needs of the inhabitants of the slum residents. The schools are recognized by the Government and receive grant-in-aid.

3. The issue was deliberated on earlier occasions. It is now agreed that the applicant in Chamber Summons No. 76 of 2017 i.e. Shivshahi Punarvasan Prkalp Ltd., a Government of Maharashtra Company, has offered six Galas i.e. Gala Nos.101, 102, 115 and 116 on the first floor and two tenements on ground floor of Building No. 13, Turbhe-Mandale, Survey No.80(Div), CTS No. 6(1) Mouje, Maharashtra Nagar, Mankhurd. It is submitted by the counsel that the said tenements are allotted free of charge / rent. The petitioner would be entitled to run the school and is free to enjoy the possession of the tenements. Electricity and water is also made available to the said tenements according to the

counsel.

4. The learned counsel for the Corporation submits that in the nearby vicinity there is a plot belonging to the Corporation, which is not developed so far. Till the Corporation decides to develop the said plot and actual development commences, the children studying in the schools are permitted to use the said plot for sporting activities during the school hours only.

5. Learned counsel appearing for the petitioner submits that in view of the statement made as above on the behalf of the applicant in Chamber Summons and the Corporation, the petitioner – Trust will hand over possession of the subject structure to the Corporation tomorrow. We accept the statements made on behalf of the learned counsel appearing for the respective parties. The parties shall act in accordance with the statements made as above.

6. The petitioner would not claim any rights of whatsoever nature in respect of the plot owned by the Corporation, which would be made available to the petitioner for carrying out sports activities. However, the

petitioner shall not raise any construction whatsoever nature on the said plot owned by the Corporation. Learned counsel appearing for the petitioner submits that the petitioner would be making appropriate application to the Corporation for allotment of suitable plot for constructing a school and for a play ground. Petitioner is at liberty to take appropriate steps. The petitioner would hand over peaceful possession of the subject structure tomorrow at 11.00 a.m. in the presence of the officers of the Corporation.

6. With the aforesaid observations and directions, petition stands disposed of.

7. In the light of the above order, Chamber Summons No. 76 of 2017 stands disposed of accordingly.

(DR. SHALINI PHANSALKAR-JOSHI,J.)

(NARESH H. PATIL,J.)