

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

WRIT PETITION (LOD) NO.1989 OF 2017

Sai Siddhi Developers .. Petitioners
Versus
State of Maharashtra & Ors. .. Respondents

Mr. Chirag Balsara, Ms. Neha Bhosale and Ms. Disha Parekh i/b.
M/s. NDB Law for the petitioners

Mr. H.Takke, AGP for respondent No.1

Mr. P.K.Dhakephalkar, Senior Advocate i/b. Vishal Hegde for
respondent No.2

Mr. Rahul Sinha i/b. M/s. DSK Legal for respondent No.3 SRA

Mr. Subir Kumar for respondent No.5

Mr. Milind Sathe, Senior Advocate i/b. Deepkar Livingston for
respondent No.6

Mr. V.D.Patil for respondent No.4

Mr. Sukant Karmakar, AGP for respondent No.1

CORAM : SHANTANU S. KEMKAR &
G.S.KULKARNI, JJ.

DATE : 7th December 2017.

P.C.

This petition has been filed under Article 226 of the
Constitution of India, seeking quashment of the order dated 10th July
2017 passed by the High Power Committee.(for short HPC).

2] Though, various grounds have been raised in the petition so

as to challenge the said order, the learned Counsel for the petitioner submits that since the contesting respondents are agreeable for setting aside the impugned order and for issuing a direction to the HPC to decide the matter afresh, the petition be disposed of by setting aside the impugned order with a direction to HPC to decide the matter afresh. Her further submits that since there was interim order operating since 18th August 2017 in terms of prayer clauses (c) and (d) of the petition, the same be continued till the HPC decides the matter afresh.

3] Learned Counsel for the respondent Nos. 2 and 6, though agreed for remand of the matter by setting aside the impugned order, however, submit that during the pendency of the matter before the HPC, the interim order passed by this Court in the earlier round of litigation (Writ Petition Lod.No.1458 of 2017), to the extent that “no actual work shall be done by the new developer till the HPC gives its final decision on the appeal filed by the petitioner”, be only continued and not the interim order as prayed for by the petitioner in terms of prayer clauses (c) and (d) of the petition.

4] It is also the case of the respondents that so far as prayer clause (c) is concerned, when this Court is remanding the matter back to the HPC by setting aside the impugned order, the prayer clause (c) as prayed has now become redundant. As regards the prayer clause (d), according to the learned Counsel for respondent Nos. 2 and 6, the same relates to the status quo and same should not be passed.

5] Having heard the learned Counsel for the petitioner, we are of the view that in this petition on 18th August 2017 this Court has granted interim relief in terms of prayer clause (c) as also prayer clause (d) of the petition. Instead of it interim relief in terms of prayer clause (d) deserves to be continued till the matter is finally heard by HPC.

6] We accordingly order that the impugned order is set aside and that the interim order in terms of prayer clause (d) will continue till the matter is decided by the HPC. The prayer clause (d) reads thus:-

“(d) Pending the hearing and final disposal of this writ petition, this Hon'ble Court may be pleased to grant status quo with respect to the plot bearing CTS No.22(pt), Village Goregaon, Near Siddhi Vinayak Temple, Oshiwara Bridge, S.V.Road, Goregaon West, Mumbai 400104.”

7] Learned Counsel for the contesting parties as also learned Counsel for HPC and SRA agree that the matter may be directed to be heard and decided by the HPC within a period of three months from the date of receipt of copy of this order. We order accordingly.

8] Parties to appear before the HPC for preliminary hearing on the ensuing meeting of the HPC. Learned Counsel for the parties undertake to cooperate with the HPC for deciding the matter within the time fixed by this Court.

9] Since we have set aside the impugned order and remanded the matter back to the HPC, we observe that the HPC to take fresh decision, without being influenced by its earlier order.

10] All contentions of all parties are kept open.

11] We also observe that we have not gone into the merits of the matter and we are remanding the matter back to HPC on the ground that respondent Nos. 2 and 6 have stated that since the question of bias has been raised by the petitioners, instead of going into the said controversy, for speedy disposal of the matter, they have agreed for fresh decision by the HPC.

12] Petition is disposed of accordingly.

(G.S.KULKARNI, J)

(SHANTANU S. KEMKAR, J.)