

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 12286 OF 2015

Muktai Granthalaya Mandal
through its Chairman Balasaheb
Sadashivrao Kadam .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri U. R. Awate, Advocate for the Petitioner.
Shri S. G. Karlekar, A.G.P. for the Respondent No. 1.
Shri A. S. Bajaj, Advocate for the Respondent No. 2.
Shri R. V. Gore, Advocate for the Respondent No. 3.

**CORAM : S. V. GANGAPURWALA AND
A. M. DHAVAL, JJ.**

DATE : 22ND MARCH, 2018.

FINAL ORDER :

. The petitioner seeks relief to the effect that, the respondent Nos. 1 and 2 be directed to hand over possession of Plot No. N-2/A/L-4, N-2, CIDCO, New Aurangabad pursuant to the allotment letter dated 15.07.2010. It further seeks directions against the respondent No. 2 to remove encroachment over the plot allotted to the petitioner.

2. Affidavit is filed by the respondent No. 2 stating that, the writ plot is allotted to the petitioner for the purpose of library. It

is further stated in the affidavit that, difficulties arose while handing over possession of the writ plot to the petitioner as obstruction is made by the persons claiming to be members of Vitthal-Rukhmai Bhakta Mandal. Even necessary police help was sought. Police help was provided on 05.04.2017. The employees of CIDCO went to the spot to remove encroachment and hand over possession to the petitioner and because of huge gathering and crowd of ladies and gents obstructed the said process. The Commissioner of Police on considering request of Trustees of Vithal Rukhmai Bhakta Mandal has withdrawn the police aid and it is stated that, as matter is subjudice before the Court, police aid cannot be provided.

3. Mr. Gore, the learned counsel for the respondent No. 3 submits that, initially writ plot was allotted to the respondent No. 3/Trust. However, the respondent No. 3/Trust could not deposit the amount. Thereafter it is allotted to the petitioner. Now, the respondent No. 3 is ready to deposit the amount. In the year 2011, the petitioner trust has also made application to allot alternate plot. Same is also not considered. The CIDCO could have allotted alternate plot to the petitioner trust.

4. Once an order of allotment is already issued, the possession is required to be handed over. It would not be appropriate for the respondent No. 3 a religious trust to make obstruction on the

writ plot. The writ plot is vacant plot. The structure is on the adjoining plot, as such it cannot be said that the sentiments of the people could be involved.

5. There would be no propriety on the part of the respondent No. 3 or its members to obstruct handing over of the writ plot to the petitioner, when the same is allotted to the petitioner and the compliances are made.

6. Considering the above, the respondent No. 2 shall take steps to hand over the possession of the writ plot to the petitioner, if need be by police help. The steps for handing over possession be taken expeditiously. The writ petition is accordingly disposed of. No costs.

[A. M. DHAVAL, J.]

[S. V. GANGAPURWALA, J.]

bsb/March 18