

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 952 OF 2015

M/s. Sai Krupa Developers.

..Petitioner.

Versus

City & Industrial Development Corporation
of Maharashtra & Others.

..Respondents.

Mr. N. H. Raval i/b Mr. Amey Kulkarni for the Petitioner.

Mr. V. S. Gokhale, B-panel counsel for the Respondent-State.

Mr. G. S. Hegde for Respondent No. 1 to 4.

Coram : Ranjit More &
Smt. S. S. Jadhav, JJ.

Date : **February 26, 2018.**

P. C. :

1. The learned Counsel for the Petitioner at the outset makes a statement that he is restricting this writ petition to the challenge to the stop work notice dated 26th February 2013 and he is not making any grievance in respect of the letter dated 9th November 2012 issued by the Collector Raigad to the Managing Director, CIDCO.

2. The said stop work notice is issued by the CIDCO to the Petitioner on the basis of Collector's above referred letter dated 9th November 2012 addressed to the Managing Director, CIDCO. The letter discloses that vast tract of land was owned by one Sir Mahamad Yusuf Haji Ismail Trust [for short "the Trust"], which came to be acquired by CIDCO by passing an award dated 27th February 2004. The said award was subsequently modified / amended at the instance of one Urmesh Udani and the name of the Trust was substituted by the name of Urmesh Udani. By doing this, said Udani obtained

compensation of Rs.8,76,956/- and he has also taken benefit of 12.5% Plot Scheme from CIDCO. According to the said letter, this is illegal and therefore the plot of land allotted to Urmesh Udani deserves to be taken back by the CIDCO. The CIDCO was directed to take appropriate action.

3. So far as the present Petitioner is concerned, its predecessor-in-title, namely, Namdeo Changu Thakur was the tenant in respect of the land Gat Nos.A/464, A/948 and A/953 of said Trust. The proceedings under the Maharashtra Tenancy and Agricultural Lands Act were initiated for the purchase of this property and the Petitioner's predecessor-in-title obtained certificate under section 32M of the said Act. The mutation entry No. 2920 of village Nhave, Panvel and mutation entry No. 990 of village Nhave, Panvel support the Petitioner's case in this regard

4. The CIDCO as a matter of fact did not dispute the fact that the Petitioner's predecessor-in-title was tenant in respect of the said land of the Trust and latter on purchased the same under the provisions of the Maharashtra Tenancy and Agricultural Lands Act. The compensation was also paid to the Petitioner's predecessor-in-title for acquisition of the said land and the said plot was allotted to them by virtue of scheme of 12.5% Plot Scheme, which plot is being developed by the present Petitioner. The Petitioner, as stated above, approached this Court in view of the stop work notice issued by the CIDCO at the instance of Collector, Raigad.

5. Having considered the rival submissions and having gone

through the petition along with annexures thereto, we find that CIDCO has misconceived the said letter of the Collector because they came to know about the fraud practiced by Urmesh Udani after lapsing of 20 months period from the date of award thereby taking plot from CIDCO by illegally amending the award.

6. So far as the petitioner's subject plot is concerned, the same was allotted in view of the acquisition of land bearing Gat No. A/464, A/948 and A/953 of village Nhave. The CIDCO has no grievance inasmuch as the allotment of subject plot to the Petitioner's predecessor-in-title is concerned. The impugned notice is issued only because of the directions issued by Collector Raigad. As stated above, the said notice was in respect of fraud played by one Urmesh Udani. The Petitioner's contention that their predecessor-in-title had already become the owner of the land bearing Gat Nos. A/464, A/948 and A/953 of village Nhave is supported by the documents on record. We, therefore, find that predecessor-in-title of the Petitioner was rightly allotted the plot of land and the same is being developed by the present Petitioner.

7. In above circumstances, in our view, the impugned notice, namely, the notice dated 26th February 2013 directing the Petitioner to stop work cannot be sustained and the same is quashed and set aside. Writ petition is allowed.

[Smt. S. S. JADHAV, J.]

[RANJIT MORE, J.]