

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.5214 OF 2016

The Poona Club Ltd

Through Secretary

V/s.

State of Maharashtra & Ors.

...Petitioner

...Respondents

Mr.A.V. Anturkar, Senior Counsel a/w Mr.Sugandh B. Deshmukh for the Petitioner in WP No.5214 of 2016.

Mr.A.A. Kumbhakoni, Advocate General a/w Mr.S.B. Kalel, AGP for the Respondent-State in all matters.

**CORAM : S.C. DHARMADHIKARI &
SMT.BHARATI H. DANGRE, JJ.**

DATE : 11th JULY 2018

P.C.:

1. After this Writ Petition was placed on several occasions in the past and argued, the only contention raised by the learned senior counsel appearing for the petitioner is that the order of the Collector, District-Pune dated 14th December 2015 does not precede any oral or personal hearing to the petitioner. If that opportunity had been granted, the petitioner would have pointed out that the conditions imposed need not be complied with in the facts and circumstances peculiar to the petitioner's case. There are several aspects of the matter, including that the Maharashtra Regional and Town Planning Act, 1966, is a subsequent legislation and would not

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therefore, operate insofar as the subject lease or grant in favour of the petitioner. Such materials could have been produced so that the petitioner is able to impress upon the Collector that such a drastic order dated 14th December 2015 should not be passed.

2. Upon such contentions being raised, we put it to the Advocate General that irrespective of the pendency of appeal before the Commissioner and the amount of Rs.2,50,00,000/- deposited by the petitioner, whether the order of the Collector can be withdrawn and a fresh hearing can be held and thereafter a reasoned order passed by the District Collector.

3. We are happy to note that the learned Advocate General informed the Court that the impugned order can be withdrawn and can be set aside as withdrawn. Now the District Collector will pass a fresh order, after affording an opportunity of personal hearing and he will take into consideration all the relevant materials, including the grounds which are pressed by the petitioner in the present petition. However, the amount be directed to be retained pending the orders of the Collector and some directions be issued with regard to the pending appeal before the Commissioner Revenue Division.

4. On instructions, Mr.Anturkar says that the petitioners will withdraw their appeal challenging the order of the District Collector and pending before the Commissioner Revenue Division within one week from today. Mr.Anturkar further says that the amount of Rs.2,50,00,000/- lying with the Government/Collector need not be refunded immediately nor even the petitioner presses for it, but the deposit will be treated as without prejudice to the rights and contentions of the petitioner.

5. In view of these statements made by Mr.Anturkar which are accepted as undertakings to this Court, we allow this petition by quashing and setting aside the impugned order. The Collector now shall pass a fresh order on merits and in accordance with law, taking into consideration the aforementioned contentions of Mr.Anturkar. The Collector shall not be influenced by the findings and conclusions in the earlier order. All contentions of both the sides in relation to the controversy are kept open. We clarify that we have not expressed any opinion thereon.

6. Let the petitioner appear before the District Collector on 24th July 2018 and the matter be decided within 2 months thereafter.

(SMT.BHARATI H. DANGRE, J.)

(S.C. DHARMADHIKARI,J.)