

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4491 OF 2019

(M/s Karwa Constructions and Developers Vs. State of Maharashtra
and others)

WITH CIVIL APPLICATION NO.7469 OF 2019

Mr.D.P.Palodkar, Advocate for the petitioner.

Mr.N.T.Bhagat, AGP for respondent No.1.

Mr.R.N.Bhapkar, Advocate for respondent Nos. 2 and 3.

Mr.A.N.Nagargoje, Advocate for the Intervenor

Mr.A.S.Bajaj, Advocate for Cidco.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 17/07/2019

PER COURT :

1. On 08/04/2019, this Court (Coram : P.R.Bora, J.) has passed the following order :-

“1 Heard Shri D.P.Palodkar, learned Counsel for the petitioner. The learned Counsel submitted that the petitioner was served with a notice dated 26.02.2019 by CIDCO whereby the petitioner was called upon to demolish certain construction alleging the same to be made illegally. The learned Counsel submitted that according to the said notice, the petitioner at his own has removed the said construction within a period of 32 days as was stipulated in the said notice and reported the compliance to the CIDCO

authorities. The learned Counsel further submitted that in spite of that, the criminal prosecution is moved against the present petitioner and the petitioner also apprehends that the CIDCO authorities may also proceed for cancellation of the construction permission granted to him.

2 The office has raised an objection that considering the subject matter, petition would lie before the Division Bench.

3 The learned Counsel submitted that he will satisfy to the Court on the point that the petition would lie before the single Judge.

4 Keeping the objection as about the jurisdiction open, issue notice to the respondents, returnable on 24.04.2019.

5 Till then, ad-interim relief in terms of prayer clause-'C'."

2. The learned Advocate for the petitioner makes a solemn statement on instructions that every inch of alleged unauthorized construction as conveyed to the petitioner by the Cidco Authorities, has been demolished and the property is ready to be inspected for the purposes of granting completion and occupancy certificate.

3. The learned Advocate appearing on behalf of Cidco submits that the Cidco authorities would inspect the property at issue on the date and time as is suggested by the petitioner for the purposes of assessing whether it can be granted a completion and occupancy certificate. This inspection shall be within the parameters of the notice dated 26/02/2019, impugned in this petition.

4. He further submits that if the construction is in tune with the permission granted by Cidco, the FIR registered against the petitioner would be not pressed and the Cidco Authorities would consent for compounding the offence.

5. In so far as the civil application filed by Sandip Mohan Wayasal, seeking intervention in this matter is concerned, he is a person whose address is mentioned as Plot No.G-25/12, Sambhaji Colony, N-6, Cidco, Aurangabad. He claims to be a businessman, though his identity is under wraps in the civil application. The learned Advocate for the petitioner has mentioned in the petition, without naming the applicant that the petitioner who is a young entrepreneur, was being blackmailed. Learned Advocate Mr.Nagargoje appearing for the applicant strenuously defends his activity of being an RTI activist and denies of having ever blackmailed

the petitioner.

6. I find that on the one hand, the applicant claims to be a businessman and on the other hand, he is before the Cidco Authorities alleging that the petitioner has committed certain irregularities in the construction at the site at issue at Golwadi near Paithan Road, which is miles away from his residence.

7. Since as on date, there are no specific allegation against the applicant, that I am not going into the details of his activities and whether he is a bonafide social worker or is purely an RTI activist with ulterior motives and nothing else to do. Nevertheless, such intervention need not be entertained. The civil application is, therefore, rejected.

8. Considering the above, the learned Advocate for the petitioner submits that an inspection can be carried out on 24/07/2019 at 3.00 p.m. The learned Advocate for Cidco submits that the Cidco authorities are agreeable for the same.

9. In view of the above, this petition is disposed off. Until the Cidco authorities take a decision post inspection, the impugned

notice shall be kept in abeyance. If the petitioner is held to be entitled for acquiring completion and occupancy certificate, the Cidco authorities would grant the same and would approach the concerned Police Station and submit that they would not press the FIR and both the parties would then move appropriate proceedings for compounding of the offence.

10. In the event, the petitioner is aggrieved by any further action by the Cidco Authorities, the same shall be an independent cause of action and the petitioner would be at liberty to take recourse to a remedy, as may be permissible in Law.

(Ravindra V.Ghuge, J.)