

(1)

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

PUBLIC INTEREST LITIGATION NO.78 OF 2019

Ramesh s/o Laxmanrao Gaikwad,
Age: 51 years, Occu: Business & Social work,
R/o: Pandharpur, Tal. Aurangabad,
District Aurangabad - 431136

..PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Urban Development & Town Planning
Department, Mantralaya,
Mumbai - 431032
2. The District Collector (Stamp),
Aurangabad, District Aurangabad
3. The Sub Registrar No.2,
Aurangabad, District Aurangabad
4. The Sub Registrar No.3,
Aurangabad, District Aurangabad
5. The Chief Officer,
City and Industrial Development
Corporation of Maharashtra,
Udyog Bhavan, New Aurangabad
6. The Police Officer (In-charge),
M.I.D.C. Waluj, Police Station,
District : Aurangabad

..RESPONDENTS

Mr S. P. Salgar, Advocate for petitioner;
Mr S. D. Ghayal, A.G.P. for respondent

**CORAM : PRASANNA B. VARALE
AND
R. G. AVACHAT, JJ.**

(2)

DATE : 2nd July, 2019**ORAL ORDER:**

On hearing learned Counsel for the petitioner at length and on going through the material placed on record, we are of the opinion that the petition can safely be disposed of by issuing directions to the authorities and as this exercise would serve the interest of justice as well as would not cause any prejudice to the parties, the petition is disposed of accordingly.

2. The petitioner, who claims to be a businessman and a social worker, is approaching this Court with a grievance of an inaction on the part of the respondents-authorities and more particularly the District Administration.

3. Learned Counsel for the petitioner invited our attention to the notification issued by the State Government, dated 7th October, 1991 placed on record at Exh.'A' to submit that by way of said notification, the City and Industrial Development Corporation (hereinafter referred to as "CIDCO", for the sake of brevity) is the planning authority for development of certain area of Aurangabad city. Schedule I of the said notification refers to those villages and there are as many as 18

(3)

villages. It is the submission of learned Counsel for the petitioner that out of these 18 villages, a village at Sr. No.16 Wadgaon (Kolhati), Aurangabad i.e. entire area of the said revenue village including gaathan is the proposed area for development by the planning authority.

4. Then our attention is invited to certain representations submitted by the petitioner to the authorities, such as, Block Development Officer, Panchayat Samiti and the Collector, Aurangabad. Learned Counsel for the petitioner also invited our attention to the communication forwarded from the Administrator, CIDCO Waluj Mahanagar, Aurangabad to the Chief Executive Officer, Zilla Parishad, Aurangabad. By this communication, the Chief Executive Officer, Zilla Parishad, Aurangabad has apprised of the notification and ceasure of the rights of the Grampanchayat in the notified area. The communication then states that as per the Government Circular dated 26th July, 1992 of invoking the provisions of Registration Act, the planning authority prohibited the transaction in the area in the nature of sale, purchase, mortgage, partition, etc. of the land. The communication then refers to the ongoing activities in spite of the prohibition and then it requested that the necessary directions be issued to the concerned officers of the Zilla Parishad so as to prevent the

(4)

activity of the illegal constructions on the land or an encroachment over the land. There is also a communication forwarded to the office of the Collector (Stamps), Aurangabad, dated 16th April, 2014 through Special Inspector General Police and the Chief Vigilance Officer, CIDCO, Mumbai.

5. On 24th July, 2018, the Additional Tahsildar, Aurangabad forwarded a communication to the Joint District Registrar, Class-I, Aurangabad and the Block Development Officer, Panchayat Samiti, Aurangabad. On receipt of the communication, the Block Development Officer immediately directed one Shri. Salunke, Extension Officer of Village Panchayat to conduct an inquiry immediately and submit report with proposed action. Similar communication is forwarded from the office of the Deputy Registrar of Stamps, Aurangabad to the Joint District Registrar, Class-I, dated 31st January, 2019. It seems that the petitioner then submitted a representation through the office bearers of a political party to the office of the Collector requesting to take immediate steps, otherwise the signatory to the representation would go on indefinite hunger strike. On receipt of this representation, the Deputy District Registrar immediately informed the Deputy District Registrar, Class-I, Aurangabad to take appropriate steps and also requested the District

(5)

Assistant Registrar to prevent the signatories from taking extreme steps of the indefinite hunger strike. Now, the grievance is of no further progress post communication dated 1st April, 2019.

6. The petitioner himself has placed on record the copy of first information report against certain private parties lodged on 28th November, 2018 in M.I.D.C. Waluj Police Station, Aurangabad. Perusal of the said report shows that the complainant is an officer of CIDCO. Thus, it is clear from the perusal of the copy of the first information report that CIDCO authorities are at least prompt in taking action of lodgment of the report against private parties for commission of offences under Section 420 of the Indian Penal Code and Section 56 (B) of the Maharashtra Regional and Town Planning Act, 1966.

7. Considering the grievance that post communication dated 1st April, 2019 there is no further progress in the matter, in our opinion, this situation can be taken care of by issuing directions to respondent No.2 - District Collector (Stamps), Aurangabad to take the matter initiated by the various communications and the latest communication placed on record dated 1st April, 2019 to its logical end. Respondent No.2 may call for fact finding report by appointing/deputing the subordinate officer. He may also seek assistance from CIDCO

(6)

authorities so as to apprise the factual position of the area and also may call for the necessary record from the CIDCO authorities, such as, the Notification, Resolutions, Circulars, etc. issued by CIDCO. We further state that respondent No.2 - the Collector (Stamps), Aurangabad is at liberty to exercise his appropriate powers in case he is of opinion to take steps for preventing the transactions activities. This exercise be undertaken by respondent No.2 - Collector (Stamps) as early as possible and not later than eight weeks from the date of receipt of the order of this Court.

With the aforesaid directions, the present public interest litigation is disposed of.

The Registry to issue authenticated copy of this order to learned Asstt. Govt. Pleader.

Learned Asstt. Govt. Pleader to communicate the order of this Court immediately to respondent Nos.1 to 4.

(R. G. AVACHAT, J.)

(PRASANNA B. VARALE, J.)

sjk