

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

WRIT PETITION NO.129 OF 2019

ABDUL REHEMAN ISMAIL BAGWAN
VERSUS
THE CHIEF OFFICER,
THE SANGAMNER MUNICIPAL COUNCIL AND OTHERS

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Advocate for Petitioner : Shri Vinod Y.Bhide
Advocate for Respondent 1 : Shri V.S. Bedre
AGP for Respondents 2 & 4 : Smt. M.A.Deshpande
Advocate for Respondent 3 : Shri Satyajeet Dixit

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CORAM : NARESH H. PATIL, C.J. & V.M. DESHPANDE, JJ.
Dated: March 25, 2019

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P. C. :-

1. The petitioner challenges the order dated 21.8.2018, passed by respondent No.1 / Chief Officer, which is at Exhibit 'C' to the petition.

2. Learned counsel for the petitioner submits that an application for sanction of the private lay out was submitted in respect of plot S.Nos. 148/2/1 and 148/2/2. It is the contention of the petitioner that the said proposal was sanctioned by the Chief Officer vide it's order dated 12.9.2003.

3. On the application filed by respondent No.3 - Sikandar, the

Collector, Ahmednagar, by its communication dated 2.6.2018, informed the Chief Officer, Municipal Council, Sangamner to look into the matter and submit a report. Accordingly, by an order dated 21.8.2018, the Chief Officer, Municipal Council, Sangamner informed the petitioner that the lay out of the said land, sanctioned by order dated 12.9.2003, stood cancelled. Being aggrieved by the same, present Writ Petition is preferred by the petitioner.

4. By an order dated 17.1.2019, the learned Division Bench of this Court has granted ad-interim relief in favour of the petitioner.

Paragraph No.7 of the said order reads as under:-

"7. By way of interim order we direct respondent authorities Nos.1 and 2 not to proceed and initiate any coercive action in furtherance of order dated 21.8.2018 as well as order dated 02.06.2018 till the returnable date."

5. Learned counsel appearing for respondent No.3 - Sikandar submits that the petitioner has, in the said lay-out, earmarked the portion of land for construction or a road, which portion, in fact, is in possession of respondent No.3 - Sikandar. The said piece of land is not owned and possessed by the petitioner and from the year 2005 the objections in that regard were raised. However, the objections

were attended after a long time by the concerned authorities and consequently, the lay out sanctioned in the year 2003 was cancelled.

6. We have perused the record placed before us.

7. Considering the submissions before us, we are of the view that the issues relating to the title, possession, signature appearing on the application, plan, blue prints etc., being the questions of disputed facts, cannot be gone into in the Writ proceedings. However, the issues raised by the learned counsel for the respective parties need to be addressed by the competent authority i.e. Collector of the District.

8. We feel that since the plans were sanctioned in the year 2003 by the Chief Officer, during the period of about last 15 years, there must have accrued third party interests and the developments must have been taken place. We, therefore, find it necessary that the Collector should hear all the concerned persons and parties to the petition, including the petitioner and respondent - Sikandar.

9. Taking into consideration the above facts and circumstances, we dispose of this petition with following directions:-

(A) The petitioner is at the liberty to file a

comprehensive representation before the Collector, in respect of the subject matter of this petition.

(B) On receipt of such a representation by the Collector, the Collector shall hear all concerned, including the present petitioner, respondent - Sikandar, representative of the Chief Officer of the Sangamner Municipal Council and any other person or officer and after verifying the entire record shall dispose of the petitioner's representation, on its own merits, by passing a reasoned order.

(C) This exercise shall be completed at the earliest and preferably within eight weeks from the date of receipt of the order of this Court.

(D) All issues are kept open.

(E) Respective parties, through their counsel, undertake to cooperate the Collector in expeditious disposal of the representation of the petitioner.

(F) Interim order of protection shall continue till the

Collector passes an order on the representation of the petitioner.

10. It is clarified that we have not expressed any opinion on the rival claims of the respective parties so also merits of the matter.

(V.M. DESHPANDE, J.)

(CHIEF JUSTICE)

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