

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7774 OF 2018

Dr. Prithviraj S. Chavan ... Petitioner

Versus

State of Maharashtra and Ors. ... Respondents

Ms. Pratibha Shelake for the petitioner.

Ms.K.N. Solunke, AGP for respondent nos. 1 to 6 State.

**CORAM : B.P. DHARMADHIKARI &
SANDEEP K. SHINDE, JJ.**
DATE : SEPTEMBER 25, 2019

P.C.:

Heard learned counsel for the petitioner and learned AGP for the respondent nos. 1 to 6 State. Nobody for respondent nos. 7 and 8.

2. Submission of the petitioner is respondent no. 8 Cooperative Society has raised the constructed in the flood affected zone and that construction being illegal needs to be removed. Our attention is drawn to the notice given by respondent nos. 7 and 8 and to reply affidavit filed by respondent no. 7 before this court. Earlier order passed by this court on 14/8/2018 in the present matter is also pressed into service.

3. Learned AGP points out that the petitioner is one of the

members of respondent no. 8 society. She submits that the irrigation department has informed respondent no. 8 that the construction is affected by determination of flood line and as such it needs to be removed. It is further pointed out that the town planning department has not been joined as party respondent.

4. Perusal of the reply of Gram Panchayat as also the notice dated 25/6/2018 sent by the Gram Panchayat shows that the Gram Panchayat had given no objection to respondent no. 8 subject to respondent no. 8 procuring other clearances. The Irrigation Department has pointed out that the high flood line has been determined and construction was affected by the said determination.

5. Learned counsel for the petitioner has submitted that there may be some other constructions which may have been raised earlier before the determination of the high flood line.

6. This court has on 14/8/2018 directed respondent no. 8 not to proceed with further construction. Thus the construction raised by respondent no. 8 is incomplete and lying un-utilized.

7. It is therefore, in the interest of the parties that the issue is looked into in accordance with the law by the competent authority.

8. The moot question will be whether the construction which is affected by high flood line can be regularized.

9. Records do not show that respondent no.8 has submitted any proposal for regularization to the town planning department. Though the town planning department is not a party, respondent no. 8 State Government and Collector, Sangli are parties before this court. The news of recent floods at Sangli is still fresh. We therefore, direct respondent no. 8 to move appropriate application to respondent no. 8 Collector or any other competent authority including town planning department for regularization of the said structure within eight weeks from today. The said department shall after receipt of the application, take suitable decision upon it after extending opportunity to the present petitioner and all other concerned. The said decision shall be taken within further period of three months.

10. Needless to mention that interim orders operating against respondent no. 8 shall continue to operate till final decision on the request for regularization mentioned supra. If no application for regularization is filed within eight weeks, interim order shall cease to operate automatically.

11. To facilitate consideration and further progress, we direct the petitioner as also respondent no. 8 to appear before the

Collector, Sangli on 14/10/2019. The period mentioned above shall begin from the said date.

12. With these directions and keeping all rival contentions of the parties open, we dispose of the present petition.

(SANDEEP K. SHINDE, J.)

(B.P. DHARMADHIKARI, J.)