

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

WRIT PETITION NO.4630 OF 2016

Mr. Rajiv Yashwant Datar and Ors. ...Petitioners

vs.

The State of Maharashtra through Secretary
and Ors. ...Respondents

Mr. Nagesh Y. Chavan for the Petitioners.
Mr. Akshay P. Shinde for Respondent Nos.3 and 4.
Mr. Atul Vanarse, AGP for the Respondent/State.

**CORAM : B. P. DHARMADHIKARI &
MRS. SWAPNA S. JOSHI, JJ.
DATE : 14/08/2019.**

P.C.:

1. Heard for some time. The petitioners claim possession of reconstituted plot as per the town planning scheme for Ichalkaranji Municipal Council, which has been finalized on 2/4/1973.

2. The petitioners claim possession of reconstituted plot No.624 and 612. The petitioners are in possession of original plot No.659.

3. The fact that location of final Plot (after reconstitution) is at same place and therefore the petitioners are in possession of part of final plot is also not in dispute.

4. However, Municipal Council has come up with defence of need of revision in this Town planning Scheme. It is submitted that one Shri Arekar who owns original Plot No.668 has sought some modification and

Municipal Council has found it necessary to delete part of his land from final plot No.624 and to re-number deleted portion as final plot No.624-A. Municipal Council proposes to allot it to Shri Arekar only.

5. In view of this development, the Municipal Council has on 29/4/1998 vide letter TP/363/1998 submitted a proposal to the State Government under section 91 of Maharashtra Regional Town Planning Act for revision. Municipal Council submits that this proposal is still pending.

6. We find that on 27/4/2015 the Municipal Council has accordingly sent reply to Advocate Mudgal, who then represented the petitioners. Mr. Arekar is not a party before this Court.

7. Learned AGP does not have instructions on action if any taken by the State Government on proposal dated 29/4/1998.

8. Learned counsel for the petitioners submits that request made by Mr. Arekar, if any and also cognizance by Municipal Council is void. According to him it Town Planning Scheme has attained finality and in April 1998 there was no need and occasion for considering any request for modification of said scheme.

9. As Municipal Council has already moved the State Government more than 20 years back and the fact has been brought to notice of the petitioners on 27/4/2015 i.e. four years back, we are not inclined to delve more into the controversy. We find that Town Planning Scheme which has been finalized in 1973 has remained unimplemented for last about 46 years.

10. We therefore direct the State Government to take action on

communication dated 29/4/1998 submitted by the Municipal Council to it in accordance with law and take suitable decision within next 4 months. If necessary, opportunity of hearing shall be extended to the petitioner as also to Mr. Arekar.

11. With these directions, keeping all contentions of the petitioners open, we dispose of the petition.

(MRS. SWAPNA S. JOSHI, J.)

(B. P. DHARMADHIKARI, J.)