

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

WRIT PETITION NO. 10328 OF 2012

1 M/s. Cosmos Builders & Ors. ... Petitioners
Vs
1 The Municipal Corporation for The ... Respondents
City of Thane & Ors.

***WITH
CIVIL APPLICATION NO. 720 OF 2019
IN
WRIT PETITION NO. 10328 OF 2012***

1 M/s. Cosmos Builders & Ors. ... Applicants

In the matter of:

1 M/s. Cosmos Builders & Ors. ... Petitioners
Vs
1 The Municipal Corporation for The ... Respondents
City of Thane & Ors.

***WITH
WRIT PETITION NO. 10329 OF 2012***

1 M/s. Cosmos Builders & Ors. ... Petitioners
Vs
1 The Municipal Corporation for The ... Respondents
City of Thane & Ors.

***WITH
CIVIL APPLICATION NO. 721 OF 2019
IN
WRIT PETITION NO. 10329 OF 2012***

1 M/s. Cosmos Builders & Ors. ... Applicants

In the matter of:

1 M/s. Cosmos Builders & Ors. ... Petitioners
Vs
1 The Municipal Corporation for The ... Respondents
City of Thane & Ors.

WITH
WRIT PETITION NO. 10330 OF 2012

1 M/s. Cosmos Builders & Ors. ... Petitioners
Vs
1 The Municipal Corporation for The ... Respondents
City of Thane & Ors.

WITH
CIVIL APPLICATION NO. 722 OF 2019
IN
WRIT PETITION NO. 10330 OF 2012

1 M/s. Cosmos Builders & Ors. ... Applicants

In the matter of:

1 M/s. Cosmos Builders & Ors. ... Petitioners
Vs
1 The Municipal Corporation for The ... Respondents
City of Thane & Ors.

WITH
WRIT PETITION NO. 10331 OF 2012

Suraj Parmar since deceased through LRs ... Petitioners
Vs
1 The Municipal Corporation for The ... Respondents
City of Thane & Ors.

WITH
CIVIL APPLICATION NO. 726 OF 2019
IN
WRIT PETITION NO. 10331 OF 2012

Suraj Parmar since deceased through LRs ... Applicants

In the matter of :

Suraj Parmar since deceased through LRs ... Petitioners

Vs

1 The Municipal Corporation for The
City of Thane & Ors. ... Respondents

WITH
WRIT PETITION NO. 10332 OF 2012

Suraj Parmar since deceased through LRs ... Petitioners

Vs

1 The Municipal Corporation for The
City of Thane & Ors. ... Respondents

WITH
CIVIL APPLICATION NO. 729 OF 2019
IN
WRIT PETITION NO. 10332 OF 2012

Suraj Parmar since deceased through LRs ... Applicants

In the matter of :

Suraj Parmar since deceased through LRs ... Petitioners

Vs

1 The Municipal Corporation for The
City of Thane & Ors. ... Respondents

Ms. Gauri Godse for the Petitioner.

Mr. Musharaf Shaikh h/f Kiran Bagalia for the Respondent No.2.

Mrs. R.A. Salunkhe, AGP, for the Respondent No.3 – State.

Mr. Mandar Limaye for the Respondent No.1 in CAW 722 of 2019.

**CORAM : S.C. DHARMADHIKARI &
SANDEEP K. SHINDE, JJ.**

MONDAY, 15TH JULY, 2019

P.C. :

1 Heard both sides. The Civil Applications for amendment are granted. We have proceeded on the basis that the amendments have been inserted in the main petitions.

2 We have heard Ms. Godse appearing in support of these petitions, unamended as also amended.

3 After having heard her at length, we find that the apprehension of the petitioners as set out in the writ petitions and summarised in the prayers no longer survive.

4 A communication from the second respondent dated 24th May, 2011, and an order of 12th July, 2011, of the Municipal Corporation were under challenge in the unamended petition. We are concerned with the communication of 24th May, 2011.

5 In Writ Petition No. 10328 of 2012, a copy of this

communication is annexed at page 61 of the paper-book. That communication says that the property, more particularly referred and described therein is required for the purposes of the Mumbai Mahanagar Regional Development Authority's proposal of Metro Alignment and Car Depot. That was proposed at Kasarwadavali. A copy of the communication to the Assistant Government Pleader is taken on record and marked "X" for identification.

6 Now, when this petitions were placed before us we have been informed that on 3rd July, 2019, the Department of Urban Development, Government of Maharashtra is in receipt of a proposal from the MMRDA. That says that Mauje Owale was the site and approximately forty hectares of agricultural land was to be excluded from agricultural division and to be utilised for Metro Car Shed so also other allied commercial use. However, the MMRDA does not require the land at Mauje Owale for Metro Car Shed. It has requested the Government to exercise its powers under section 37(1AA)(c) of the Maharashtra Regional & Town Planning Act, 1966 and make appropriate modifications in the Development Plan. Now, the Car Shed is proposed at Mauje

Mogharpada in District Thane. Hence, the proposal to take the land admeasuring forty hectares from Mauje Owale is dropped.

7 Once that is dropped and final formal orders of the Government alone are awaited, then, we have no doubt in our mind that the Thane Municipal Corporation will not insist on these lands being earmarked or reserved for Metro Car Shed any longer. In the event the petitioners have applied for grant of development permission and to develop these properties based on their right, title and interest therein, then, their applications be scrutinized on merits and in accordance with law. All earlier communications of the Municipal Corporation and the State Government, therefore, do not survive. Even the order passed by the State Government under section 47 of the MRTP Act does not survive and stands set aside.

8 The Writ Petitions are allowed accordingly. All the Civil Applications stand disposed of.

SANDEEP K. SHINDE, J.

S.C. DHARMADHIKARI, J.