

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR**

Criminal Writ Petition No. 877 of 2018

Petitioner : M/s Database Collection And Advertising Pvt Ltd.,
(A Company incorporated under the Companies Act, 1956), having its Registered Office at C-3, Varad Apartments, Samarth Nagar, Aurangabad, through its Director, Ravi Shivprasad Zanwar, aged about 45 years, Occ: Business, resident of 23, Mahalaxmi Nagar, Jalna
versus

Respondents : 1) The State of Maharashtra, through its Secretary, Department of Home, Mantralaya, Mumbai
2) The Superintendent of Police, Office of the Superintendent of Police, Buldhana
3) The Police Inspector, Police Station, Deulgaon Raja, District Buldhana

Applicants : 1) Haribhau Balaji Malode, aged about 82 years,
2) Laxman Balaji Malode, aged about 80 years

3) Rambhau Balaji Malode, aged about 75 years

All residents of Deulgaon Raja, Dist. Buldhana

Shri D. R. Jethliya, Advocate for petitioner

Shri A. V. Palshikar, APP for respondents

Shri Nihalsingh B. Rathod, Advocate for applicants

**Coram : Sunil B. Shukre &
Smt Pushpa V. Ganediwala, JJ**

Dated : 8th April 2019

P. C.

1. Learned counsel for the petitioner, on instructions, seeks leave of the Court to withdraw the petition. Grant of leave is opposed by learned counsel for the applicant and learned APP submits that appropriate order may be passed.

2. Firstly, the proposed interveners would have no right to oppose the prayer for withdrawal and secondly, if at all they have any right against the petitioners, they would have to resort to such other remedy as may be available to them in law. However, we have given audience to the counsel for applicants in order to enable us to pass appropriate order in the matter.

3. We find that reply of the prosecution needs to be taken into

consideration before we advert to the request made on behalf of the petitioner. By order dated 19th September 2018, this Court directed respondent no. 3 Police Inspector, PS, Deulgaon Raja to look into the grievance of the petitioner and make appropriate enquiry and submit report to this Court. Now that the police have placed on record their report, it is the duty of the Court to look into the same so that justice could be done.

4. This report shows that the petitioner has started construction without obtaining necessary sanction from the Competent Authority. It also makes a mention that the petitioner has committed defaults in many statutory compliances and if police aid is accorded to the petitioner, it would disturb the public tranquility and would create law and order problem. This would mean that some of the facts which are necessary for deciding the controversy involved in this petition have not been placed on record by the petitioner and now that they have surfaced through the police report, we are proposing to impose some penalty on the petitioner while granting leave, as prayed for since the petitioner has unnecessarily consumed the valuable time of the Court.

5. Accordingly, leave to withdraw the petition is granted to the petitioner. Petition is disposed of as withdrawn. However, penalty of Rs. 5000/- is imposed on the petitioner. The amount of penalty be made over to the District legal Services Authority, Buldhana within four weeks from

today. Payment of penalty is condition precedent for grant of leave to withdraw the petition and for grant of requisite sanction by the local authority, if any, and issue of building permit to the petitioner, if any. Copy of this order be sent to the Chairman, District Legal Services Authority, Buldhana, Chief Officer, Municipal Council, Buldhana and the Collector, Buldhana. Hamdast granted.

SMT PUSHPA V. GANEDIWALA, J

SUNIL B. SHUKRE, J

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