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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9671 OF 2017

Maharashtra State Government
Employees Co-operative Tenant
Owners Housing Society

.. Petitioner

Versus

The Collector, Nashik & Ors.

.. Respondents

Mr. Akshay Purekar i/by Mr. Sandeep D. Shinde for Petitioner.
Mr. Y. S. Khochare, AGP for Respondent Nos.1, 2 & 4.

CORAM: PRADEEP NANDRAJOG, CJ. &
SMT. BHARATI DANGRE, J.

JANUARY 17, 2020

P.C.

1. Counter affidavit has not been filed to the instant Writ Petition which is languishing in the record room of this court since the year 2017.

2. Case of the Petitioner is that on 06.10.1982 the Collector allotted 6 Hectare 18.9 Ares land to the Petitioner which

is a Cooperative Society of Maharashtra State Government Employees. The Petitioner obtained sanction of the layout as per which Plot No. 102 ad-measuring 44.70 sq.mtrs. was reserved to be used by the Petitioner. Though not pleaded but the reservation obviously was for the Petitioner to use said Plot No. 102 for purposes of constructing a building to be used as it's office.

3. The Petitioner pleads that there being no land available for commercial and social use, the Petitioner applied for a sanction to the Collector to erect a building which could be used for commercial and social use. The request was neither granted expressly nor rejected expressly and for which Petitioner seeks reliance on Section 44(3) of the Maharashtra Land Revenue Code, 1966 which stipulates that if a sanction sought is not refused, the same shall be deemed to have been granted.

4. On these pleadings challenge is to the intimation dated 08.06.2017 issued by the Tahsildar, Niphad directing demolition of the structure constructed on the plot in question.

5. Without adjudicating on the rights of the Petitioner whether there was a deemed sanction or not, we are constrained to quash notice dated 08.06.2017 for the reason it has not been

preceded by a show-cause notice to the Petitioner. Having civil consequences a valuable right of the Petitioner of being heard has been denied.

6. The Writ Petition is disposed of quashing the notice dated 08.06.2017 issued by the Tahsildar, Niphad.

7. The Authority would be permitted to issue a notice to the Petitioner before passing any order and if the Petitioner in the reply filed takes a stand of there being a deemed sanction, the same will be dealt with in the final order passed.

8. No costs.

Pravin D.
Pandit

SMT. BHARATI DANGRE, J.

CHIEF JUSTICE

Digitally signed by
Pravin D. Pandit
Date: 2020.01.18
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