

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

919 WRIT PETITION NO.4105 OF 2020

MIRAJGAVE CONSTRUCTION THROUGH ITS PROPRIETOR DILIP
SHIVAPPA MIRAJGAVE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Petitioner : Mr. Venjane Tukaram M.
AGP for Respondent/State : Mr. P.G. Borade
Advocate for Respondent No.2 : Mr. S.V. Deshmukh
...

**CORAM : RAVINDRA V. GHUGE &
S.G. MEHARE, J.J.**

DATED : 15th SEPTEMBER, 2021

PER COURT :-

1. On 31.08.2021, we had passed the following order:

“1. Shri Deshmukh, learned advocate representing respondent No.2, tenders an apology that he was unable to file an affidavit in reply as he is awaiting instructions after the draft affidavit has been submitted to his client.

2. We have granted time for filing an affidavit in reply of respondent No.2 here before. The learned advocate for the petitioner expresses urgency.

3. As such, we direct respondent No.2 to file an affidavit in reply on or before 09.09.2021, failing which, office shall not accept such reply thereafter.

4. List this petition on 15.09.2021 in the “urgent admissions” category.

5. Ad-interim relief granted earlier to continue.”

2. The learned advocate for respondent no.2 - CIDCO submits that he has still not received the affidavit in reply of CIDCO so as to be filed in this Court. Considering the same, we are proceeding

with this matter without the reply of CIDCO.

3. We have perused the impugned order dated 26.12.2019 and we have heard the strenuous submissions of the learned counsel for the respective sides. The petitioner's contention is that it was not heard when the impugned order was passed. CIDCO contends that the purported agreement dated 01.07.1994 between the erstwhile allottee Smt. Vanita Nutan Shah and others, the petitioner herein and CIDCO authorities, does not bear the signature and seal of CIDCO. Consequentially, the allotment of 0.42 Hectare R, which is equivalent to 1 acre of land in gut no.48 at Mauje Wadgaon (Kolhati), to Smt. Vanita Nutan Shah and others, stands cancelled.

4. It is apparent from the record that Smt. Vanita Nutan Shah or the petitioner were not heard when the impugned communication was issued. The learned advocate for the petitioner submits that the petitioner is willing to appear before respondent no.2 authority and address the concerned authority before it passes any order.

5. In view of the above, this petition is partly allowed. The impugned communication dated 26.12.2019 is quashed and set aside. The file on which the impugned order was passed, stands restored. CIDCO authorities are at liberty to issue notice to all such parties, who can be termed as the stake holders in connection with the subject matter at issue and conduct a hearing as may be prescribed in law and

thereafter pass a reasoned order. We make it clear that if any order passed by CIDCO is in connection with the agreement dated 01.07.1994 and creates a dispute as to whether CIDCO authorities had been a party to the said agreement or not, the litigating parties would have a remedy of approaching the civil Court since the issue would then throw up disputed questions touching the very agreement dated 01.07.1994.

(S.G. MEHARE. J.)

(RAVINDRA V. GHUGE, J.)