

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

**WRIT PETITION NO.1529 OF 2020**

Suhas Vishnupant Bandewar

...Petitioner

Vs.

The State of Maharashtra and Ors.

...Respondents

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Mr. A. M. Kulkarni for the Petitioner.

Mr. N. K. Rajpurohit, AGP for the Respondent No.1 -State.

Mr. B. D. Joshi for Respondent No.2.

Mr. Sarang Aradhye for Respondent No.3.

Mr. Bhushan Walimbe for Respondent Nos.4.1 to 4.4.

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**CORAM : NITIN JAMDAR &  
SHARMILA U. DESHMUKH, JJ.**

**DATED : 13 OCTOBER 2022.**

**P. C. :**

Heard learned counsel for the parties.

2. The Petitioner has challenged the order passed by Respondent No.2-Municipal Council dated 31 October 2019 confirming temporary permission of 4 September 2019 whereby earlier decision taken by the Municipal Council as regard order dated 28 November 2017 is recalled and order as on 5 December 2016 is restored. The Learned counsel for the Petitioner sought to contend

that there exists no power of review in the Municipal Council and there was no error in the earlier order. The learned counsel for Respondent sought to contend that the Petitioner himself had also invoked the power of review and earlier order which is restored is correct.

3. The genesis of this Petition is the dispute between the Petitioner and Respondent Nos. 3 and 4 as regards development of the property. It is the contention of the Petitioner that layout should have been submitted jointly by the Petitioner and Respondent Nos. 3 and 4. However, Respondent No.4 has unilaterally submitted the layout. Assertion of Respondent Nos. 3 and 4 is to the contrary.

4. It is clear the this dispute between the Petitioner on one hand and Respondent Nos.3 and 4 on the other hand is not for the Respondent Council to decide neither this dispute can be decided in writ jurisdiction. The Petitioner and Respondent Nos.3 and 4 will have to get their rights in respect of property in question, adjudicated in the competent Civil Court. It is also open to Respondent Nos.3 and 4 to institute a civil proceeding in case they choose to do so.

5. The learned counsel for the Petitioner states that the Petitioner would do so, however layout sanctioned under the impugned order be not given effect to by the Respondent for sometime to enable the Petitioner to take necessary order from the Court.

6. Accordingly, we dispose of the Writ Petition granting liberty to the Petitioner and Respondent Nos.3 and 4 to institute civil proceedings. We direct that Respondent-Council will not act upon the layout sanctioned under the impugned order for a period of six weeks from today.

7. As to whether to act upon the layout sanctioned under the impugned order or take any other course of action therefor would depend on the orders passed by the Civil Court, where the parties intend to approach.

8. The Writ Petition is disposed of keeping all contentions of the parties open.

(SHARMILA U. DESHMUKH, J.)

( NITIN JAMDAR, J.)