

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

INTERIM APPLICATION NO.579 OF 2021

IN

WRIT PETITION NO.7117 OF 2017

Pimpri Chinchwad Municipal Corporation

& Anr.

.. Applicants

In the matter between

Shashikant Gulab Burde

Charholi-Budruk

.. Petitioner

v/s.

Pimpri Chinchwad Municipal Corporation

& Ors.

.. Respondents

Mr. Rohit P. Sakhadeo for the applicants/original respondent nos.1 to 3.

Mr. Vaibhav Sugdare i/b. Ravi P. Kadam for the petitioner.

Mr. A.A. Alaspurkar, AGP, for the State-respondent no.4.

CORAM : R.D. DHANUKA &

KAMAL KHATA, JJ.

DATED : 16TH SEPTEMBER, 2022.

P.C. :

1. By this Interim Application, the applicant-Corporation seeks to withdraw the impugned order dated 5th June, 2017 and to pass the fresh order under the provisions of Rule 2.3(ii) and 2.5 of Unified Development Control & Promotion Regulations for

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Maharashtra State, only to the extent of the subject property.

2. The application is opposed by Mr. Sugdare, the learned counsel for the original petitioner on the ground that the impugned order which is sought to be withdrawn by the applicant now has already been stayed by this Court by order dated 24th April, 2018 read with order dated 25th June, 2018 and thus cannot be allowed to be withdrawn now.
3. Since the impugned order which was the subject matter of the Writ Petition no.3138 of 2014, was passed by the respondent no.1-Corporation, we accept the statement made by the respondent no.1 that the said order stands withdrawn qua the writ property.
4. In view of the respondent no.1 withdrawing the said order qua the writ property, in our view, nothing survives in the writ petition filed by the original petitioner.
5. Writ Petition is accordingly disposed off as infructuous.
6. It is made clear that if the Municipal Corporation passes any fresh order by invoking provisions of UDCPR 2034, the original petitioner would have liberty to challenge such order on its own merits. This Court has not expressed any view on the merits of

the action, if any, initiated as proposed by the Municipal Corporation.

7. All contentions of both the parties including the right of the Municipal Corporation to invoke the provisions of the UDCPR are kept open.
8. We also make it clear that in view of the respondent no.1 Corporation withdrawing the impugned order which is the subject matter of this petition, this Court has not gone into merits of this petition.
9. All contentions of both the parties in this writ petition are also kept open.
10. It is made clear that since the impugned order is withdrawn by the Municipal Corporation, the Municipal Corporation would not implement the said order in any manner whatsoever against the petitioner.
11. Interim Application as well as Writ Petition are disposed off in the aforesaid terms.
12. No orders as to costs.

13. If any fresh order is passed by the Municipal Corporation, no coercive action shall be taken against the petitioner to implement such order for a period of 4 weeks from the date of communication of the said order.

(KAMAL KHATA, J.)

(R.D.DHANUKA, J.)