

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****WRIT PETITION NO. 987 OF 2022****Pramodini Satish Keni****..... Petitioner****VERSUS****The City and Industrial Development****Corporation (Maharashtra) Limited & Ors.****..... Respondents**

Mr. Sachin S.Punde for the Petitioner.

Mr.Ashutosh M.Kulkarni, a/w. Ms.Akansha Helaskar for the Respondent nos. 1 to 4 – CIDCO.

Mrs.Ashwini A.Purav, A.G.P. for the State – Respondent nos. 5 to 7.

CORAM: R. D. DHANUKA AND**S.M.MODAK, JJ.****DATE : 4th FEBRUARY, 2022*****(Through Video Conference)*****P.C:-**

By this petition filed under Article 226 of the Constitution of India, the petitioner seeks a writ of certiorari for quashing and setting aside the impugned notice dated 8th March, 2021 issued by the respondent no.3 and impugned letter dated 14th November, 2019. The petitioner also seeks writ of mandamus or any other appropriate writ or direction and/or order in the nature of writ directing the respondents to forthwith implement and execute allotment of plot admeasuring 190 square meter bearing Plot No.13, Block 3, Sector 1, Wadghar Node, Taluka Panvel, District Raigad. This writ petition was adjourned on 2nd

February, 2022 after recording the brief argument of the parties to enable the parties to take instructions. The petitioner was directed to make a statement whether he is willing to handover the possession of the structure alleged to be in possession of the petitioner to CIDCO immediately on the next date or not. The CIDCO was directed to make a statement as to when the alleged entitlement of the petitioner would be decided by the Authority in terms of the letter dated 14th November, 2019 annexed at Ex.M to the petition after giving personal hearing to the petitioner.

2. Mr.Punde, learned counsel for the petitioner on instruction states that his client is not ready and willing to handover possession. Mr.Kulkarni, learned counsel for the CIDCO on instruction states that the alleged entitlement of the petitioner would be decided by the committee appointed by the CIDCO presided by Shri Mool in the meeting proposed to be held on 7th February, 2022 at 11.00 a.m. He states that the appropriate decision would be taken within one week from the date of the said meeting. Statement is accepted.

3. A perusal of the averments made in the petition indicates that the

petitioner has admitted that the construction is carried out by the petitioner on the plot of CIDCO and is thus unauthorized. It is the case of the respondent no.1 that the husband of the petitioner has been already accommodated in the alternate plot. In view of the fact that it is an admitted position that the petitioner has carried out construction on the plot of CIDCO, we are not inclined to interfere with the impugned decision taken by the CIDCO.

4. Be that as it may, since the CIDCO is ready and willing to decide the alleged entitlement of the petitioner, within one week from 7th February, 2022, we direct the petitioner to handover the vacant possession of the structure of the petitioner in the alleged possession of the petitioner within one week from today which shall be subject to the outcome of the decision that would be taken by the Committee appointed by the CIDCO. The order that would be passed by the CIDCO shall be communicated to the petitioner within one week from the date of passing such order. It is made clear that the petitioner would not continue with the possession merely because the issue is pending before the Committee appointed by the CIDCO for deciding the alleged entitlement of the petitioner.

5. If the vacant possession is not handed over by the petitioner within one week from today, CIDCO would be at liberty to take forcible possession and if necessary, with the assistance of police as the CIDCO requires that plot for Navi Mumbai International Airport.

6. If the committee decides in favour of the petitioner and based on that order, if permanent alternate accommodation is offered to the petitioner, the petitioner may accept such permanent alternate accommodation. If the petitioner is still aggrieved by the said order, the petitioner would be at liberty to file appropriate proceedings.

7. The petitioner is directed to appear before the Committee on 7th February, 2022 at 11.00 a.m. No separate notice would be issued to the petitioner for hearing. The petitioner shall co-operate with the Committee in taking decision expeditiously and shall not seek any unnecessary adjournment.

8. Writ petition is dismissed with the aforesaid clarification. No order as to costs.

9. The parties to act on the authenticated copy of this order.

[S.M.MODAK, J.]

[R.D.DHANUKA, J.]