

WRIT PETITION NO.5924 OF 2021

M/s. Virani Construction Company ...Petitioner
Vs.
The Thane Municipal Corporation & Ors. ...Respondents

Mr. Darshit Jain i/by Divya Jain & Dileep Satale for the
Petitioner.
Mr. Chirag Shah a/w Mr. Raj Adhia for Respondent-Corporation.
Ms. K. N. Solunke, AGP for the Respondent-State.
Mr. Amol Valvi, Sub-Divisional Engineer, PWD Bhingare, Dist.
Panvel – present in Court.

**CORAM : A. A. SAYED &
ABHAY AHUJA, JJ**

DATED : 14th MARCH, 2022

P.C.:

The Petition has been filed seeking the following reliefs:

(a) this Hon'ble court be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate Writ, Order or Direction calling upon the Respondents to grant lease in respect of CTS No. 294, Village Mumbra, Taluka and District Thane in favour of the Petitioner or its nominee;

(b) Or in the alternative to prayer (a), this Hon'ble Court be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate Writ, Order or Direction calling upon the Respondents to grant right of way or access over CTS No. 294, Village Mumbra, Taluka and District Thane in favour of the Petitioner or its nominee;

2. In the Affidavit-in-Reply filed on behalf of the Respondent-Corporation, in paragraph no. 17(b), it has been stated as follows:

“17(b). Under this policy when more than 50% of the total area of the reservation land is in possession of the Land Owner/Developer and if he submits the registered documents and request for part area of that reservation which is in the possession of the Thane Municipal Corporation, the policy for leasing part of the land under reservation in possession of Thane Municipal Corporation to the Developer/Institutions on payment of Annual lease rent as per the Prime Lending Rate as per ready-reckoner rate of State Government. But during that period, this policy was not submitted to the Urban Development Department, Government of Maharashtra for government’s approval. Therefore, it is a fact that the Resolution No. 14 dated 20.04.2016 of the Thane Municipal Corporation is not yet approved by Government of Maharashtra. Therefore applicability of this policy remains unclear at the level of Thane Municipal Corporation.”

3. Learned Counsel for the Respondent-Corporation states that the policy of lease as mentioned above is pending at the Government level. He fairly states that in the facts and circumstances of the present case, the Respondent-Corporation has no objection in granting right of way or access and prayer Clause (b) of the Petition being allowed, subject to the conditions that may be imposed by the Respondent-Corporation.

4. Learned AGP on instructions from Mr. Amol Valvi, Sub-Divisional Engineer, PWD, Bhingare, District-Panvel states that the

said property now vest with the Respondent-Corporation and it is for the Respondent-Corporation to decide as regards the right of the way or access.

5. Accepting the statement of learned Counsel for the Respondent-Corporation, the Petition is allowed in terms of prayer clause (b). The Petition to stand disposed of.

6. We record the statement of learned Counsel for the Petitioner that the Petitioner would abide by the terms and conditions imposed by the Respondent-Corporation in allowing right of way or access.

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NAIK

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(ABHAY AHUJA, J.)

(A. A. SAYED, J.)