

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

WRIT PETITION NO.2841 OF 2022

Pratap S/o. Pandurang Gaikwad

.. Petitioner

v/s.

The State of Maharashtra and Ors.

.. Respondents

Mr. Hiren Kamod a/w Mr. Ashwin V. Sakolkar, for the petitioner.

Mr. Rohit Sakhadeo, for respondent Nos.2 and 3 – NMC.

Mr. A. A. Alaspurkar, AGP – State, for respondent No.1

CORAM : R.D. DHANUKA &

KAMAL KHATA, JJ.

DATED : 26TH SEPTEMBER, 2022.

P.C. :

1. Rule. Mr. Alaspurkar, learned AGP waives service for respondent No.1. Mr. Sakhadeo, learned counsel waives service for respondent Nos.2 and 3. Rule is made returnable forthwith.
2. By this petition filed under Article 226 of the Constitution of India, petitioner seeks writ of certiorari for calling the records pertaining to the development proposal dated 14th June, 2019 submitted by the petitioner to respondent No.3 and for other reliefs. In prayer clause (d) petitioner seeks an order and directions against respondents to forthwith complete the remaining construction of retention safety

wall on the southern side of the said land parcel adjoining the Nasardi river.

3. This Court by an order dated 19th September, 2022 permitted the respondents Nos.2 to 3 to take instructions and to make a statement whether the proposal under Section 37(1) of the MRTP Act, 1966 has been sent by respondent No.3 to respondent No.1 till date or not. This Court also directed the State Government to make a statement as to whether any such proposal has been received from respondent No.3 or not. Pursuant to the directions dated 19th September, 2022.
4. Mr. Sakhadeo, learned counsel for respondent Nos.2 to 3 tenders affidavit in reply and states that the respondent No.3 has already submitted proposal communication dated 11th December 2020 under Section 37(1) of the MRTP Act, 1966 with the State Government. Copy of the said proposal annexed to the affidavit in reply dated 22th September 2022.
5. Learned counsel for the petitioner at this stage states that the representations made by the petitioner insofar as a request to complete the remaining construction of the retention safety wall on the southern side of the said land parcel adjoining the Nasardi river annexed at page No.53 and 54 are pending. He at this stage states

that his clients would file representation for requesting the respondent Nos.2 and 3 to complete the remaining construction of the retention safety wall on the southern side within two weeks from today. Statement is accepted.

6. Respondent Nos.2 and 3 shall consider the fresh representation within three months from the receipt of such representation and shall communicate the order that will be passed by respondent No.2 and 3 to the petitioner within one week from the date of passing an order. If petitioner is aggrieved by the orders that will be passed by respondents, petitioner would be at liberty to file proceedings permissible in law.
7. It is made clear that this Court has not expressed any views on the proposals made by respondent Nos.2 and 3 to the respondent No.1 under Section 37(1) of the MRTTP Act or on the representations that would be made by respondents Nos.2 and 3.
8. Writ petition is disposed off in aforesaid terms. Rule is made absolute.
9. All contentions on this issue are kept open.
10. No order as to costs.
11. Parties to act on the authenticated copy of this order.

(KAMAL KHATA, J.)

(R.D.DHANUKA, J.)