

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

WRIT PETITION NO.7217 OF 2021

Jaywant Manik Gulvi & Anr.

... Petitioners

Vs.

State of Maharashtra, Through Secretary,
Ministry of Urban Development & Ors.

... Respondents

Mr. Chaitanya Nikte a/w Mr. Burzin Bharucha, Mr. Sanjay Rego, Ms. Jhanavi Shah i/by White & Brief Advocates & Solicitors for the Petitioners.
Mrs. M. P. Thakur, AGP for the Respondent-State.
Mr. N. R. Bubna for Respondent Nos.2 to 4-Corporation.
Mr. Rajesh Datar for Respondent No.7.

**CORAM : S.V. GANGAPURWALA &
ARIF S. DOCTOR, JJ.**

DATED : 28TH NOVEMBER 2022

PC. :

1. We have heard the learned Advocate for the Petitioners, the learned AGP, the learned Advocate for Respondent Nos.2 to 4 and the learned Advocate for Respondent No.7.

2. The whole dispute, it appears, arises upon Condition No.11 of the NOC dated 25th October 2013 and Condition No.1 of the revised NOC dated 02nd December 2013 and Condition no.7 of NOC dated 21st October 2015 imposed by the Respondent-Thane Municipal Corporation. According

to the Petitioners, the said conditions affect the land of the Petitioners bearing old Survey No.258/2. According to the learned Counsel for the Petitioners, there is no existence of Nalla in the land of the Petitioners, still an erroneous condition of RCC construction to be carried out on the Nalla, from the land of the Petitioners has been laid down by the Respondent-Corporation while issuing NOC and revised NOC to Respondent No.7. The same is without notice to the Petitioners.

3. The learned Advocate for Respondent No.7 submits that the said condition is in existence since the year 2013 and is in accordance with the existing position on the site.

4. Any condition imposed while granting NOC to Respondent No.7 certainly would not bind the Petitioners unless the Petitioners is given notice of being heard. In the present Writ Petition, we would not be deciding about the existence of the Nalla or otherwise on the land of the Petitioners or Respondent No.7. It is only before the Civil Court the said dispute can be agitated and redressed.

5. As the Condition No.11 of NOC dated 25th October 2013, Condition No.1 of revised NOC dated 02nd December 2013 and Condition No.7 of NOC dated 21st October 2015 are without notice to the Petitioners, we hold that the same would not bind to the Petitioners. In case some condition is putforth that would affect the Petitioners, it would be imperative to first give notice to the Petitioners, hear the Petitioners and take decision afresh in that regard.

6. With these observations, the Writ Petition is disposed of. No costs.

(ARIF S. DOCTOR, J.)

(S.V. GANGAPURWALA, J.)