

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9295 OF 2017

Raj Nandkishore Agrawal : Petitioner.
Versus
The State of Maharashtra and ors. : Respondents.

Mr. Surel S Shah for Petitioner.
Ms. Nisha Mehra, AGP for Respondent No.1/State.
Mr. Rhishikesh M Pethe for Respondent No.2- Corporation.

CORAM : S. V. GANGAPURWALA &
ARIF S. DOCTOR, JJ.
DATED : 22nd NOVEMBER 2022

PC.

1 Mr. Surel Shah, the learned advocate for the Petitioner, submits that the land of the Petitioner is shown as reserved for children play ground in the final development plan. In fact in the development plan area of 44,500 sq.ft. was shown for children play ground. Apart from the Petitioner's land, other lands have been de-reserved, and they are included in the residential zone. 798.24 sq.mtr. area of the subject land of the Petitioner is now reserved for children play ground. Draft Development Plan was published. Petitioner raised objection. Respondents were not considering the objection raised by the Petitioner. The Petitioner approached this Court. This Court by order dated 14th October 2016 in Writ Petition No.11682 of 2016 directed the State to consider the Petitioner's representation/objection. The said objection is not considered in proper perspective. The Planning Committee had also

recommended deletion of the reservation on the Petitioner's land and that it should be earmarked for residential zone. The same is also not considered by the government and final development plan is sanctioned. No purpose would be served by keeping 8000 sq.ft. area of the Petitioner's land under reservation for children play ground. Same also would not be sufficient.

2 The learned advocate for the Respondent-Corporation submits that the Planning Authority did not take any decision on the report of the Planning Committee and did not submit the draft development plan to the government for sanction within stipulated time.

3 The learned AGP for the Respondent-State submits that area of 7980 sq.ft is sufficient for children play ground. It is also submitted that the Planning Authority did not take any decision on the report of the Planning Committee and did not submit the draft development plan to the government for sanction within stipulated time.

4 The government, therefore, appointed a committee under Section 162 of the Maharashtra Regional Town Planning Act to complete the procedure. Now the Committee has taken a policy decision to continue the reservations which were in the first revised sanctioned development plan. Hence the reservation on the subject land was continued in the draft

development plan submitted under Section 30 of the said Act.

5 This Court while exercising its powers of judicial review would not sit over as an appellate authority over the decision of experts. This Court would more concerned with the adherence to the due procedure. The development plan and its' sanction is the job of the experts and the planning authority.

6 The procedure, it appears, has been followed. In fact the planning authority did not take decision on the report of the planning committee submitted to the government and did not submit the draft development plan within stipulated time. In view of that, the government was constrained to appoint a committee under the chairmanship of Divisional Commissioner, Pune Division, Pune referable to Section 162 of the said Act to complete the legal procedure required and to submit the development plan to the government for sanction under section 30 of the said Act. The Director of Town Planning, Pune after considering the application of the Petitioner dated 04th January 2016 submitted his report in respect of the subject land while submitting his remarks on the second revised development plan for the original area of Pune Municipal Corporation. The State Government thereafter sanctioned partly the second revised development plan and the same has come into effect. It appears that the procedure has been followed by the State Government.

7 In case, the planning authority viz. the municipal corporation, Pune is of the opinion that the said land would not be required for children play ground, it is for the municipal corporation, Pune to proceed for minor modification as per the provisions of the MRTP Act and take appropriate steps in that matter.

8 Writ Petition is accordingly disposed of. No order as to costs.

[ARIF S. DOCTOR, J]

[S. V. GANGAPURWALA, J]