

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

WRIT PETITION NO. 3540 OF 2017

S.T.Workers Co-operative Housing
Society Limited.

..Petitioner.

Versus

The State of Maharashtra & Anr.

..Respondents

Mr. S. R. Ganbavale a/w. Mr. Kush Lahonkar for Petitioner.
Mrs. Rupali M. Shinde, A.G.P. for Respondent No.1.
Mr. Abhijit M. Adagule, for Respondent No.2.

**CORAM : R. D. DHANUKA AND
M. G. SEWLIKAR, JJ.**

DATE : 18th JULY 2022.

PC :

1. Rule. Rule made returnable forthwith by consent of the parties. Learned A.G.P. waives service for the Respondent No.1.

2. The petitioner has filed this writ petition under Article 226 of the Constitution of India seeking writ of mandamus directing the Respondent No.1 to convert the property in dispute bearing 2H 47.50R out of Revision Survey No.129/2 and 3 at mouje Ujalaiwadi, Taluka Karveer, District Kolhapur, from agricultural zone to residential zone as per Regional Development

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Plan prepared U/s.20 of the Maharashtra Regional Town Planning Act. (hereinafter referred to as 'M.R.T.P. Act').

3. We have perused the affidavit in reply filed by the Respondent No.1 on 03/02/2020. Paragraph No.9 of the said affidavit in reply indicates that, it is the case of Kolhapur Municipal Corporation vide its resolution No.77, dated 17/07/2013 refused to initiate the proposal of modification regarding the suit land U/s.37 of the M.R.T.P. Act, 1966, and thus, no relief can be granted in favour of the petitioner by this court. The relief prayed in the petition are contrary to the provisions of law and policy of the Government.

4. Learned counsel for the Respondent No.2 states that, though, Municipal Corporation had initiated proposal for modification U/s.37 of the M.R.T.P. Act, the General body of the Municipal Corporation has rejected the said proposal. The statement is accepted.

5. In our view, the stand taken by the general body of the Municipal Corporation to reject the proposal submitted by the

Kolhapur Municipal Corporation for modification U/s.37 of the M.R.T.P Act, 1966 is arbitrary, without any basis and unreasoned.

6. We, accordingly, direct the Kolhapur Municipal Corporation to submit a fresh proposal for modification U/s.37 of the M.R.T.P Act to the State Government within three weeks from today.

7. On receipt of such proposal from the Kolhapur Municipal Corporation by the State Government, the State Government shall take further steps under the said Act within 8 weeks thereafter.

8. The Writ Petition is allowed in the aforesaid terms.

9. Rule is made absolute accordingly. No order as to costs.

10. Parties to act upon authenticated copy of this order.

(M. G. SEWLIKAR, J.)

(R. D. DHANUKA, J.)