

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

996 PUBLIC INTEREST LITIGATION NO.109 OF 2015
WITH WP/1651/2004 IN WP/421/1986 WITH PIL/38/2015 WITH
WP/2556/2013 WITH **CA/4189/2023** IN PIL/109/2015 WITH WP/3865/2008
WITH SMWP/2/2001 WITH CA/8414/2023 IN PIL/109/2015 WITH
CA/9934/2023 IN PIL/109/2015

**REGISTRAR(JUDICIAL) HIGH COURT OF BOMBAY BENCH AT AURANGABAD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioner : Mr. Ajit B. Kadethankar a/w.
A.D. Ostwal, Amicus Curiae
AGP for Respondents/State : Mr. P.S. Patil
Advocate for R/3 & 4 : Mr. A.S. Bajaj
Advocate for R/11 : Mrs. Anjali Dube (Bajpai)
Sr. Advocate for Intervenor : Mr. V.D. Sapkal i/by. B.B Bhise
Advocate for Applicant in CA/9934/23 : Mr. A.S. Kulkarni
Advocate for Intervenor : Mr. U.B. Bondar

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**CORAM : RAVINDRA V. GHUGE &
Y.G. KHOBRAGADE, JJ.**
DATE : 8th September, 2023

PC. :-

1. Civil Application No.4189/2023 was filed by the Applicants considering certain paragraphs of our orders dated 13.01.2023, 20.02.2023 and 09.03.2023 with regard to demarcation of hawkers zone in Block Nos.4 and 6 (Connaught Place).

2. The Applicants have placed voluminous documents before us. The Cidco authorities have filed a detailed affidavit in reply to the Civil Application, dated 25.04.2023 and have annexed several documents and maps to the said reply.

3. In a recent development, a joint visit of the Administrator of Cidco and Deputy Commissioner-4 of the Municipal Corporation was conducted at the said Block Nos.4 and 6, on 28.03.2023. With a covering letter dated 12.04.2022 the Administrator Cidco has placed the said report along with several maps on record. The last portion of the report reads as under :

"सदयस्थितीत जागेवर ब्लॉक क. ०४ व ०६ च्या पाठीमागील संपूर्ण जागेवर (सुरक्षारक्षक यांचे निवासस्थान, विद्युत डिपी इत्यादी खालील क्षेत्र वळगता) पार्किंगचा वापर सुरू आहे परंतू या जागेवर फेरीवाले (Howkers) स्थलांतरीत केल्यास, पार्किंगचे क्षेत्र कमी होईल. सिडको विकास आराखड्याप्रमाणे या जागेवर हॉकर्स मार्केटचे आरक्षण असलेतरी प्रत्यक्षात आतापर्यंत हॉकर्स मार्केटचा कधीच वापर झाला नसल्याचे दिसते. सध्या या जागेवरील पार्किंग पाहता हॉकर्स मार्केटकरीता ही जागा अनुकूल वाटत नाही."

4. The re-produced portion above would indicate that the authorities find that the land behind Block Nos.4 and 6 now accommodates the residences of security personnel, an electricity DP and other things due to which the said area would not be appropriate for a hawkers zone. Though the development

plan of Cidco indicates that area to be a hawkers market, it was never used for the said purpose and the said area is not suitable now for establishing hawkers market.

5. The learned senior advocate representing the Applicants submits that the Applicants had approached this Court on an apprehension that the hawkers zone would be established at the said place. They have certain documents with them which indicate that there is a lease deed agreement between the licensee and the Cidco. The learned advocate for the Cidco has vehemently opposed this contention in the light of the affidavit in reply and the maps placed on record and he contends that the entire area which is now being used as a parking area was never leased out.

6. The learned senior advocate submits that there were four gates for the purposes of security of the residents in the buildings. The two gates connecting to the 9 meter road and the 5 meter road are kept open and the Applicants are cooperating. Needless to state, the Applicants can keep their security guards at the said open gates to ensure that there is no unauthorized thoroughfare and to protect the said area from outsiders for the purposes of parking their vehicles.

7. The issue before us today is that the Applicants had approached the Court on an apprehension with regard to the hawkers zone. Shri Sapkal submits that now that the report indicates that a hawkers zone would not be feasible, the apprehension of the Applicants is put to rest. They desire to withdraw this Civil Application. He further adds that in future if there is any precipitative action at the behest of any statutory authority or any person and the Applicants find the same to be a new cause of action, they would approach the appropriate forum for the redressal of their grievance. If found appropriate, they may even file a Civil Application in the present PIL proceedings.

8. In view of the above, **this Civil Application is disposed off as withdrawn with liberty**, keeping in view the report which indicates for the present that the hawkers zone is not feasible at Block Nos.4 and 6 in Connaught Place Cidco.

9. Needless to state, since the earlier development plan indicates the hawkers zone and since the Applicants claim that they have lease deed agreements, this issue is left open to be considered if the hawkers zone is planned to be established at Block Nos.4 and 6 or if the Cidco authorities approach the Applicants for changing the use of the demarcated area.

10. All the contentions of the litigating parties including the contention of the Applicants that in the final development plan there was no hawkers zone and the contention of the Cidco / Corporation that there was a hawkers zone a is visible from the record and the maps and the plans, are kept open.

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11. The learned advocate Shri Ostwal has placed on record certain photographs with regard to the MSEDCL electrical poles on the High Court - Kamgar Chowk road. The same is marked as 'X-6' for identification.

12. The learned advocate for the Corporation has tendered an additional reply dated 24.08.2023 indicating that they do not have funds to be extended to the MSEDCL authorities for shifting / conversion HT/LT wires - underground.

13. The Municipal Corporation has not filed its reply to Civil Application No.9934/2023 filed by Shri T.K. Prabhakran, a practicing advocate. Let such reply be filed on or before 21.09.2023.

14. List the PIL on 27.09.2023 at 04.30 p.m.

[Y.G. KHOBRAGADE, J.]

[RAVINDRA V. GHUGE, J.]