

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 791 OF 2023**

Eco Recycling Ltd. & Anr.

....Petitioners

V/s.

State of Maharashtra & Ors.

....Respondents

Mr. Anand R Pai i/b SC Partners for Petitioners.

Mr. Niranjan Shimpi for Respondent Nos.9 & 10.

Mr. A. I. Patel, Addl. GP a/w Ms K. N. Solunke AGP for State.

**CORAM : K. R. SHRIRAM &
Dr. NEELA GOKHALE, JJ.
DATED : 9th NOVEMBER 2023**

PC. :

1 Petition is filed praying for directions to be issued to respondent nos.1 to 8 to carry out survey, demarcation and construction of a public motorable road as demarked on the plan annexed to the petition by taking assistance of police if necessary, and complete the same in time bound manner.

2 Affidavit in reply has been filed by one Adik Subhash Patil, Tahsildar, Taluka Bhiwandi, District- Thane. In this affidavit, it is stated that one Kantilal Nathubhai Shah has submitted a proposal of lay out of building plans of godown for commercial purpose for sanctioning layout of the plots of survey numbers mentioned in the affidavit. The proposal was submitted to Assistant Director of Town Planning, Thane. After following the due process of law the Assistant Director of Town Planning, Thane had

approved the said layout plan vide order dated 26th November 2008 and the same was sent to the Collector Thane for approval and the Collector has also approved the same. Survey numbers of petitioner's property was also included in the lay out plan.

3 It is stated in the said affidavit that it was obligatory on the part of Kantilal Nathubhai Shah to develop / construct the internal roads in the said layout as shown in the said proposed and approved layout plan. It is also stated that it was duty of the said developer Kantilal Nathubhai Shah to prepare the said internal layout road and after completing the same to hand over the same to the planning authority and the planning authority will further hand over the same to the local authority. Reference is made to condition no.25 in the said order dated 26th November 2008 which stipulates that applicant of the said N.A. order shall physically develop the open space and internal road and hand over the same to the local authority / planning authority for its maintenance.

4 Petitioners, whose property is included in the lay out plan, had submitted an application to respondent no.2 and requested for the survey of the internal road in the land bearing survey no.162/4/2, Mauje Kharbav, Tal-Bhiwandi, District – Thane be carried out and boundaries marked be fixed and after making demarcation of the boundaries marks therein, the internal road be handed over to Kharbav Grampanchayat. It is stated that respondent no.4 had directed the land record officer to carry out survey and

measurement for internal road and that survey / measurement for the internal road has been carried out on 27th August 2015.

5 Mr. Patel states that petitioner cannot expect the State to develop the internal road and hand it over to the local authority / planning authority because the responsibility was that of the developer Kantilal Nathubhai Shah. Mr. Patel states it is a private layout and the internal roads have to be developed by the developer and not any planning authority or local authority.

6 In view of what is stated in the affidavit in reply, in our view, it will be open to petitioner to apply for permission to develop the road to the appropriate authorities and the appropriate authorities will consider and pass such orders as required in accordance with law after being satisfied that petitioner is entitled to develop any internal road. If any such application is made, the same will be disposed within three months of filing the same.

7 We are not for the moment certifying petitioner's entitlement. That is for the authority to decide.

8 Petition disposed.

(Dr. NEELA GOKHALE, J.)

(K. R. SHRIRAM, J.)