

Vijay Motilal Navander	...	Petitioner
V/s.		
City Industrial Development Corporation of Maharashtra Limited and Ors.	...	Respondents

**CORAM : SUNIL B. SHUKRE &
R.N. LADDHA, J.J.**

P.C. :

2. The main prayers made in this petition are as follows:-

“b) The entire record of Hall No. 10 and 12 situated at Central Facility Building, Durganagar, Opp. Divya Adlab, CIDCO, Nashik be called from Respondent No. 1, 5, 6, 7, 8 and after its perusal, kindly quash and set aside the allotment of Hall No. 10 and 12 in favour of Respondent

no. 9 to 12.

c) That, the registration No. 1825 dated 5th May 2020 issued in favour of Respondent No. 11 under the name and style as “GANPATI HOSPITAL” in respect of Hall No. 10 and 12 be cancelled.”

3. Learned counsel for the respondent nos. 9 to 12 and also learned counsel for CIDCO point out that brother of the petitioner has filed Civil Suit bearing No. 329/2018 claiming identical relief. They invite our attention to copy of the plaint at page 121-F. The prayer made in the plaint appears at page 121-J, the prayer (a) is relevant and is reads as under:

(a) Respondent no.1 had given hall no. 10 to respondent nos. 2 and 3 for other than banking business and had allotted hall no.10 to them which is totally illegal. Hence, the allotment letter dated 28.03.2018 regarding the suit property is illegal one. Hence, plaintiff most respectfully request the Hon’ble Court to set aside the allotment letter.

4. It would be clear that the prayer made in this petition and prayer made in the Civil Suit, which has been filed against CIDCO which is respondent no.1 and Dr. Sandeep Mandlecha and Ms. Sonal Mandlecha, who are respondent nos. 9 and 10 herein, are identical. Of course, respondent nos. 11 and 12 i.e. Dr. Kiran Birari and Dr. Prachi

Birari are not party defendants to the Civil Suit. But, the fact remains that atleast as against respondent nos. 9 and 10, the Civil Suit has been filed by the brother of the petitioner. If this is so, we do not think that this petition filed against the respondent nos. 9 and 10 would be maintainable.

5. Of course, the learned counsel for the petitioner submits that the petitioner has learnt that his brother has withdrawn the Civil Suit and he seeks time to take necessary instructions in the matter. Ordinarily, we would have granted time to the learned counsel for the petitioner but, we find that the petitioner would not be remedy-less if it really turns out that his brother Sanjay Navamder has withdrawn the Civil Suit and the petitioner would still have remedy before the Civil Court of Competent Jurisdiction by filing an appropriate suit against the respondents, for the reason that the petitioner is or was not party to the said Civil Suit. Besides, the issues raised in the petition regarding change of user of the house in question, conversion of certain areas for the purposes of Pharmacy and so on raise disputed questions of facts. Then, there is also a permission granted by the CIDCO to the respondents, way back in the year 2018 for change of user of the house in question. That permission was granted on 24/09/2018, which has not been challenged in this petition by the petitioner.

6. In the circumstances, we are not inclined to entertain this petition, though, we grant liberty to the petitioner to initiate appropriate proceedings before the appropriate forum for questioning

the change of user of house in question and also seeking cancellation of the allotment of halls in question.

7. The petition stands dismissed with aforesaid liberty. All contentions are kept open

8. We make it clear that we have not made any observation on the merits of the matter.

(R.N. LADDHA, J)

(SUNIL B. SHUKRE, J)