

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 13078 OF 2017

WITH

INTERIM APPLICATION No. 2130 OF 2023

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Mr. Santosh Laxman DeshpandePetitioner

Vs.

State of Maharashtra and Anr.Respondents

WRIT PETITION No.10786 OF 2018

Parijat Officers CHS (Prop.)

Nerul Through its Chief Promoter ...Petitioner

Vs.

City and Industrial Development

Corporation Thr. Its Vice President

Cum Managing Director and Ors. ...Respondents

WITH

CIVIL APPLICATION No. 2213 OF 2019

IN

WRIT PETITION No.10786 OF 2018

WITH

WRIT PETITION (ST) No. 2086 OF 2020

Parijat Coop. Hsg. Society Ltd.,

Thr. Chief Secretary N.D. Mahajan ...Petitioner

Vs.

City and Industrial Development
Corporation of Maharashtra Ltd.

Thr. Vice President and Ors. ...Respondents

WITH

CONTEMPT PETITION No.64 OF 2019

Parijat Officers Coop. Hsg. Society,

Thr. Chief Promoter Mr. Chandrakant

Jairam Gudewar ...Petitioner

Vs.

Mr. Lokesh Chandra, IAS,

Vice President and Managing Director ...Respondent

WITH

WRIT PETITION No. 5067 OF 2019

Mahalaxmi Co.op. Hsg. Soc.

Ltd. (Proposed) Thr. Chief

Promoter Mr. Shahaji A Desai ...Petitioner

Vs.

City and Industrial Development

Corp. of Mah. Ltd. Thr. Vice

President Cum Managing Director ...Respondent

WITH

WRIT PETITION No. 11868 OF 2018

The Judges Coop Hsg. Soc. (Proposed)

Ltd. Thr. Chief Promoter Ratnakar

S Salgaonkar

...Petitioner

Vs.

The State of Maharashtra

Thr. The. Secretary,

Revenue and Forest Dept. and Ors.

....Respondents

WITH

WRIT PETITION No. 12518 OF 2019

Parijat Officers Coop Hsg Soc.(Prop)

...Petitioner

Vs.

City and Industrial Development

Corporation of Maharashtra Ltd.

and Ors.

...Respondents

WITH

INTERIM APPLICATION No. 441 OF 2020

WITH

WRIT PETITION (ST) No. 30396 OF 2019

Devgiri Coop Hsg. Soc. Ltd.

Thr. Secretary S.D. Yadav

...Petitioner

Vs.

City and Industrial Development

Corporation of Maharashtra

Ltd. Thr. Vice President and Ors.

...Respondents

WITH
INTERIM APPLICATION No. 1961 OF 2020

Mr. D.G. Dhanure, Advocate for the Petitioners in WP 10786 of 2018, WPST 2086 of 2020, CP 64 of 2019, WP 12518 of 2019, WP 5067 of 2019 and WPST No. 30396 of 2019 and for Respondent Nos. 4 and 5 in WP No. 11868 of 2018 and Applicant in CAW 2213 of 2019 and IA 1961 of 2020 and IA 441 of 2020

Dr. Uday P. Warunjikar, Advocate for Petitioners in WP 13078 of 2017 a/w. Mr. Sumit Kate and Applicant in IA 2130 of 2023

Mr. G.S. Hegde, Senior Advocate a/w. Mr. P.M. Bhansali, Advocate for Respondent -CIDCO

Mr.A.I. Patel, Additional G.P. a/w. Mr. R.S. Pawar-AGP for State in above WPs

**CORAM:- R.D. DHANUKA &
GAURI GODSE, JJ.**

DATE :- 13 MARCH, 2023.

P. C.:

1. Insofar as Writ Petition No. 13078 of 2017 is concerned, various orders are passed by this Court from time to time, doubting locus of the Petitioner in filing this writ petition.

2. During the course of arguments of this petition, this Court inquired with the learned counsel for the Petitioner as to what is locus of the Petitioner in filing this petition.

3. Dr. Warunjikar, learned counsel for the Petitioner submitted that his client has purchased the booklets on payment of Rs.1,050/-, which showed that there was reservation provided by the Respondents. He submitted that if the allotment made in favour of the allottees is set aside, in that event, the Petitioner would apply for allotment of plot under the open category. The Petitioner thus, would have locus in that event to apply for allotment of the plot under the open category.

4. Mr. Hegde, Learned Senior Counsel for the Respondent -CIDCO invited our attention to the Scheme framed by the CIDCO and vehemently urged that the proposed society can apply for allotment of the land under the Scheme formulated by the CIDCO. He invited our attention to page 41 of the Writ Petition showing that out of the reservation of the 20 plots, Serial Nos. 92 and 93 were made available for open category. He submitted that the Petitioner has not formed any society nor applied for

allotment. The Petition filed by the Petitioner cannot be entertain only on the basis that if the scheme framed by the CIDCO is set aside, in that event, the Petitioner can apply for allotment for plot under the open category.

5. We have perused the order passed by this Court from time to time, making various observations about the locus of the Petitioner in filing the petition. The order passed by this Court on 30 September, 2022 in Writ Petition No. 10786 of 2018 filed by Parijat Officers CHS (Prop.) Nerul was heard from time to time along with this Writ Petition No. 13078 of 2017. Dr. Warunjikar's client did not apply for vacating the said order dated 30th September, 2022 passed by this Court in Writ Petition No. 10786 of 2018.

6. Perusal of the prayer of Writ Petition No.13078of 2017 clearly indicates that it is not a case of the Petitioner that he has formed a cooperative society and applied for allotment of the land, which is the subject matter of allotment of land of the CIDCO. On the contrary, the ground raised in paragraph (vii) that few options are made available to the Petitioner who falls in the open category, though he could apply, if he would have proposed to form a society, he did not

apply.

7. A perusal of the prayer clause (a) clearly indicates that even in the writ petition, there is no prayer that after quashing and setting aside the scheme formulated by the CIDCO, the Petitioner shall be allotted the plot. No personal relief sought in the petition. Perusal of the Interim Application also indicates that though the Applicant had an opportunity to apply even at this stage, subject to the arguments of the Respondents, whether such amendment could be permissible or not, the Applicant did not apply for adding an additional prayer, leading to the fact that if the scheme sanctioned by the CIDCO is quashed and set aside, the Petitioner shall be allotted one of the lands. Even at this stage, the Petitioner has not proposed to form a society.

8. It is not in dispute that all 19 plots are already allotted out of 20 plots, and 19 plots were allotted in the year 2019. Last plot bearing No.11 is now allotted as per the order dated 14 November 2022 passed by this Court. The Petitioner has not prayed for any personal relief for allotment of plot in the Interim Application. The fact remains that the Petitioner had not applied for formation of the society which is

the main condition.

9. We are not inclined to entertain this Writ Petition. Writ petition is accordingly dismissed. In view of dismissal of the Writ Petition, Interim Application does not survive. Interim Application is disposed of accordingly.

10. Other Writ Petitions to be placed on board for direction 27 March, 2023.

(GAURI GODSE, J.)

(R.D.DHANUKA, J.)