



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

901 CIVIL APPLICATION NO. 3332 OF 2024
IN WP/426/2023

MS S M CONSTRUCTIONS THROUGH ITS PARTNER RAJENDRA
GHEVARCHAND DESARDA

VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND OTHERS

Mr.A.P. Bhandari, Advocate for the Applicant.

Mr.R.S. Wani, AGP for the Respondent/State.

CORAM : RAVINDRA V. GHUGE &
S.G. CHAPALGAONKAR, JJ.

DATED : 28.03.2024

PC :-

01. The Petitioner has moved this Civil Application in the disposed Writ Petition. It is confessed that clause (iv) in prayer clauses (B) and (C) should not have been mentioned in the prayers and the Petitioner desires that the said portion in the two prayers be deleted from the Petition. Leave to amend is sought. A further request is made that while copying prayer clauses (B) and (C), in order dated 16.02.2024, it is mistakenly typed as “200.06” instead of “2000.06” under clause (i) in prayer clauses (B) and (C).

02. In view of the above, **the Civil Application is allowed.** Clause (iv)

is permitted to be deleted from prayer clauses (B) and (C) in the memo of the Petition. After deletion, the said two prayer clauses be incorporated below paragraph No.1 in the order dated 16.02.2024. In short, a corresponding correction be carried out. Insofar as, the figures “200.06” appearing in both these prayer clauses in the order, the same shall be replaced by the figures “2000.06”. Corrected order be uploaded.

[S.G. CHAPALGAONKAR,J.]

[RAVINDRA V. GHUGE,J.]

(This order dated 16/02/2024 stands corrected in view of the order dated 28.03.2024 passed in Civil Application No. 3332 of 2024)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 426 OF 2023**

S M CONSTRUCTIONS THROUGH ITS PARTNER RAJENDRA
GHEVARCHAND DESARDA

VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND
OTHERS

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Mr. Anand P. Bhandari, Advocate for the Petitioner.

Mr. P. K. Lakhotiya, AGP for Respondent Nos.1 to 3.

Mr. Sachin Deshmukh, Advocate for Respondent No.4.

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**CORAM : RAVINDRA V. GHUGE AND
S. G. CHAPALGAONKAR, JJ.**

DATE : 16th FEBRUARY, 2024.

PER COURT:-

1. The Petitioner has put forth prayer Clauses 'B' and 'C' as under:-

"B. The Honourable Court be pleased to issue writ of Mandamus or any other appropriate writ, directing respondents to release the land bearing Gut No.166, situated at village Tisgaon Tal. & Dist. Aurangabad, totally admeasuring 9 H 31 R, to the extent of area owned by the Petitioner, affected by reservation for I. Veg Market: 2000.06 square meters, ii. Fish & Mutton Market: 1101.87 square meters, iii. Institution: 2381.72 square meters in the Development Plan for notified CIDCO area sanctioned by the Government of Maharashtra by the notification dated 14.08.2001 and grant permission for Development to the Petitioner, as permissible to the adjacent land owners.

C. The Honourable Court be pleased to issue writ of Mandamus

*or any other appropriate writ, directing the respondent no.1 to issue a notification in terms of section 127 (2) of Maharashtra Regional and Town Planning Act, 1966, thereby notifying release of land bearing Gut No.166, situated at village Tisgaon Tal. & Dist. Aurangabad, totally admeasuring 9 H 31 R, to the extent of area owned by the Petitioner, affected by reservation for I. Veg Market: **2000.06** square meters, ii. Fish & Mutton Market: 1101.87 square meters, iii. Institution: 2381.72 square meters in the Development Plan for notified CIDCO area sanctioned by the Government of Maharashtra by the notification dated 14.08.2001.”*

2. The affidavit-in-reply on behalf of CIDCO has been filed. The learned Advocate representing CIDCO opposes the Petition on the ground that CIDCO being a Planning Authority has dedicated itself to have a planned development and in the process of achieving this object, it has identified social facilities and places for garden, play grounds, schools, dispensary centers, community centers etc.. The entire philosophy behind reservation is set out in the affidavit-in-reply. However, it is conceded that after the purchase notice was received by CIDCO, Notification under Section 19 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 has not been issued.

3. Considering the above, we do not find that the contentions of the CIDCO could be entertained to refute the request of the Petitioner for releasing the land from reservation.

4. In view of the above, **this Petition is allowed** in terms of prayer Clauses ‘B’ and ‘C’.

5. Respondent No.1 shall issue an appropriate Notification within a period of 90 days from today.

(S. G. CHAPALGAONKAR)
JUDGE

(RAVINDRA V. GHUGE)
JUDGE

Devendra/February-2024