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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2932 OF 2024

Nitin Bhimsingh Bais ...Petitioner
Versus
The Pune Municipal Corporation & Ors ...Respondents

WITH
WRIT PETITION NO. 2933 OF 2024

Nitin Bhimsingh Bais ...Petitioner
Versus
The Pune Municipal Corporation & Ors ...Respondents

Mr Prasad Dhakhephalkar, Senior Advocate, with Suresh M Sabrad, Amey Sawant & Pratik Sabrad, for the Petitioner in WP/2932/2024.
Mr Vineet Naik, Senior Advocate, with Suresh M Sabrad, Amey Sawant & Pratik Sabrad, for the Petitioner in WP/2933/2024.
Ms Manisha Jagtap, for the Respondent-PMC in both WPs.
Mr Mayur Khandeparkar, with RD Soni & Pratik Kothari, i/b Ram & Co, for Respondent No 3 in WP/2932/2024.
Mr KB Dighe, Senior Advocate, with MP Thakur, AGP, for Respondents Nos 4 & 5 in both WPs.

CORAM G.S. Patel &
Kamal Khata, JJ.
DATED: 18th April 2024

PC:-

WRIT PETITION NO. 2932 OF 2024

1. In our view, the Petition is entirely premature. It assails a notice of 14th February 2024. This calls upon the Petitioner to show cause why a Gunthewari Certificate for Plot No 8 ought not to be cancelled. Time was given of 15 days for this purpose. Mr Dhakhephalkar maintains that the authority has no jurisdiction. This is only a show cause notice. All points, including jurisdiction, can be taken before the authority. This is not a question only of a jurisdictional bar under a statute. The entire argument is that after certain acts have been officially done, there is a divesting of power in the authority. This will have to be shown in answer to the show cause notice. It is not possible for us, while this is at the stage of a show cause notice, to express an opinion on the merits of the case. Apart from anything else that would only prejudice the Petitioner's case before the authorities.

2. We clarify that all contentions are expressly left open, including the contentions raised in WP 2933 of 2024, and that we would expect a reasoned order on the merits.

3. We make it clear that there are other contesting Respondents as well. These are private persons. They will also have to be heard. If the resultant order is against the Petitioner, it will not be acted upon i.e., the certificate will not be cancelled for a period of three weeks thereafter to enable the Petitioner to approach this Court.

4. Time to file Reply to the notice dated 14th February 2024 annexing all documents is extended by three weeks from today.

5. The Petition is disposed of in these terms. There will be no order as to costs.

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6. In view of the order passed in Writ Petition No 2932 of 2024, this Petition is allowed to be withdrawn without an assessment on merits but will liberty to the Petitioner to file a fresh Petition after the order on the show cause notice dated 14th April 2024, if required.

(Kamal Khata, J)

(G. S. Patel, J)