

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3861 OF 2024

Dharampal Sharma & Ors.

.. Petitioners

Versus

Government of Maharashtra & Ors.

.. Respondents

.....

- Mr. Y.S. Jahagirdar, Senior Advocate a/w Ms. Aneesha Munshi and Ms. Palak Jain i/by Divya Shah Associates for Petitioners
- Mr. S.R. Page a/w Ms. Ruchi Umrotkar for Respondent No. 3

.....

CORAM : MILIND N. JADHAV, J.

DATE : MARCH 20, 2024

P. C.:

1. Not on board. Mentioned. Taken on board.
2. Perused the praecipe dated 20.03.2024. Heard Mr. Jahagirdar, learned Senior Advocate for Petitioners and Mr. Page, learned Advocate for Respondent No. 3.
3. Genesis of the present Writ Petition emanates from the Collector's order dated 20.04.2021 whereby status of Petitioner No. 1 has been converted from Occupier Class-III to Occupier Class-I with respect to the subject matter (property) of the Writ Petition. Subsequently certain developments have taken place thereafter. Petition was also filed in this Court being Writ Petition No. 8128 of 2023 which was disposed of by order dated 07.09.2023 directing Respondent No. 2 to decide the Application for condonation of delay.

It was decided. Revision Application stood allowed by Respondent No. 2 by its order dated 15.02.2024 which is impugned. By virtue of the impugned order dated 15.02.2024 passed in Revision filed at the behest of Respondent No. 3 - BPCL, the order of Collector dated 20.04.2021 granting conversion stands set aside.

4. On the basis of the above facts and circumstances, an arguable case is made out by Mr. Jahagirdar for immediate stay of the impugned order dated 15.02.2024 as also from taking any consequential / coercive steps pursuant to the said order. Respondents are therefore directed not to take any coercive steps against the Petitioners pursuant to and in consequence of the impugned order dated 15.02.2024 since this Court is now seized with the substantive challenge maintained to the said order.

5. Issue notice to the unrepresented Respondents made returnable on 17.04.2024. Humdast permitted. In addition to Court's notice, Petitioners are directed to serve copy of the Petition along with copy of this order on the Respondents and inform them about the next date of hearing by any permissible mode of service and file appropriate affidavit of service with tangible proof thereof on or before the next date.

6. Mr. Page, learned Advocate waives service on behalf of Respondent No. 3 – BPCL.

7. After receiving the notice, Respondents to file affidavit-in-reply within two weeks from today, if so desired with an advance copy to the Advocate for Petitioners. Rejoinder if any shall be filed on or before the next date.

8. Respondent are directed to remain present either themselves or through their Advocate on the next adjourned date. It is made clear that if Respondents remain absent despite service on the next adjourned date, this Writ Petition shall be heard and disposed of at the stage of admission in the absence of the Respondents.

9. This Court expects assistance from Respondent Nos. 1 and 2, hence the Chief Government Pleader, Appellate Side shall depute a proper officer / AGP to assist the Court in the present Writ Petition. He shall also ensure that appropriate affidavit-in-reply is filed.

10. Mr. Page raises a preliminary objection on maintainability of the present Petition as to whether this Petition would lie on the original side or Appellate Side. Registry / Office is directed to look into the objection and on considering the reliefs prayed for in the present Writ Petition, place a report before this Court within a period of one week from today.

11. Stand over to 17th April, 2024.

Amberkar

[MILIND N. JADHAV, J.]

RAVINDRA MOHAN AMBERKAR
Digitally signed by RAVINDRA MOHAN AMBERKAR
Date: 2024.03.20 15:06:54 +0530