

Darshan Patil

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8482 OF 2024

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M/s. Chandni Realty Pvt. Ltd. And Anr. ...Petitioners
Versus
Panchgani Giristhan Nagar Parishad and Ors. ...Respondents

Mr G.S. Godbole, Senior Advocate, a/w Ms. Priyanka Kothari i/b
Prasad Nagargoje, Mr. Aditya Joshi for the Petitioners.
Mr Vijay Patil, a/w Mr. Yogesh Patil for Respondent No.1.
Ms M.P. Thakur, AGP for the State-Respondents No. 2 to 6.

CORAM M.S. Sonak &
Kamal Khata, JJ.
DATED: 21st June 2024

PC:-

1. Heard learned counsel for the parties.
2. The petitioners have filed two undertakings before this Court, which have been taken on record.
3. In terms of the first undertaking, the petitioners have undertaken to remove the shed they constructed on the property described as Final Plot ("FP") No. 555 (TPS III), Panchgani, Tal. Mahabaleshwar, Dist. Satara and put up a sloping roof entirely consistent with the permission dated 15th September 2020 within 12 weeks.

4. The above undertaking is accepted, and the petitioners must file a compliance report along with the photographs by the next date.

5. Mr Patil, learned counsel for respondent No.1-Council, points out that, in terms of this permission, the height of the entire structure, including the sloping roof, can not exceed 9 meters. Therefore, the petitioners will have to abide by this requirement strictly when putting up the sloping roof.

6. The petitioners have filed yet another undertaking to the effect that if the seals on the structure put up in FP No. 555 are removed, the petitioners will use the said structure only for residential purposes and not for any commercial purposes.

7. From the photographs placed on record, we find that the petitioners had obtained a conversion of FP No.555 only for residential purposes. The petitioners, however, quite brazenly, have put up a substantially large resort styled as “Grand Victoria The Fern Resort & Spa, Panchgani”. For this purpose, the petitioners have quite brazenly put up three structures and a swimming pool on the property surveyed under number 14/A/2, for which no conversion was obtained. Mr Patil states that no permission from the Council was obtained to put up these massive structures and a swimming pool. Therefore, at this stage and in this petition, no reliefs can be granted regarding structures in survey No. 14/A/2; The sealing of structures in survey no 14/A/2 must continue.

8. Considering the petitioners’ conduct, we propose to order the de-sealing of the structure in FP No. 555 until the next date to see whether the structure is used for residential purposes or is again

clandestinely used for commercial purposes, i.e. Resort and Spa. To avail of this indulgence, Mr. Godbole, learned senior advocate for the petitioners, based on the instructions from the Director of petitioner No.1, who is present in the Court, has offered to pay to Kirtikar Law Library Rs. 10,00,000/- (Rupees Ten Lakh). This amount must be paid within two weeks from today, and the receipt must be filed in this proceeding.

9. Subject to the above, the two undertakings are accepted.

10. The petitioners are to demolish the shed in FP No. 555 and put up a sloping roof consistent with permission dated 15th September 2020. The seals in so far as the building in FP No. 555 are ordered to be removed, but such removal is subject to the payments to the library and the condition that the petitioners will not use this building for any purpose other than residential. In particular, this building will not be used for any commercial purposes until further orders.

11. However, once again, it is clarified that the seals on the structures in survey No. 14/A/2 should continue. This includes even the swimming pool in the property surveyed under number 14/A/2, which shall not be used commercially.

12. Mr. Godbole states that though the sealing order, which included the structures in survey No. 14/A/2, was challenged, in this petition, the petitioners do not propose to challenge the action against the structures in survey No. 14/A/2 and will adopt alternate appropriate remedies that may be available to them.

13. Mr. Godbole states that the petitioners will prominently advertise in the newspapers circulating in the Districts of Pune and Satara, announcing that the “Grant Victoria The Fern Resort and Spa, Panchgani,” is closed until further orders. Such a notice will also be put up on the petitioners’ website, if any.

14. Mr Godbole states that the petitioners will apply to the concerned authorities for permission to use the buildings in FP No. 555 and survey No. 14/A/2 for commercial purposes. He submits that if such permissions are granted, then there should be no restraint on the petitioners’ use of these buildings for commercial purposes.

15. If the petitioners do obtain such permissions, they are at liberty to apply to this Court for a variation of this order. However, without obtaining a variation, the petitioners may not proceed to use these buildings for any commercial purposes.

16. Respondent No.1-Council must inspect the site upon the receipt of the intimation from the petitioners and confirm whether there is compliance with regard to the removal of the shed and the user of the buildings.

17. Stand over to 20th September 2024 for further consideration.

18. All concerned to act on an authenticated copy of this order.

(Kamal Khata, J)

(M.S. Sonak, J)