

Jan 2003
Jan 2nd or 1st

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1152 OF 2002

CitiSpace and Ors. ...Petitioners

Versus

State of Maharashtra and Ors. ...Respondents

Mr. Shyam Divan with Ms. Madhavi Divan instructed by M/s. Thakore Jariwala & Associates for petitioners.

Dr. Virendra Tulzapurkar, Senior Advocate, with Ms. Madhubala Kajle, Assistant Government Pleader, for respondent No. 1.

Dr. Virendra Tulzapurkar, Senior Advocate, with Mr. S.G. Surana and Mr. Shekhar Naphade for Respondent No. 2

Mrs. P.A. Purandare for respondent No. 3.

CORAM: C.K. THAKKER, C.J. & Dr. D.Y. CHANDRACHUD, J.

DATE: JANUARY 8, 2003.

P.C.

Rule. To be heard with Writ Petition No. 200 of 2002. Dr. Virendra Tulzapurkar, appears and waives service of Rule on behalf of respondent Nos. 1 and 2. Mrs. Purandare, learned counsel, appears and waives service of Rule on behalf of respondent No. 3.

2. We have heard the learned counsel for the parties on interim relief. On 31st July, 2002, the

Division Bench passed the following order:-

Heard parties.

2. Respondent no.2 is directed to file an affidavit disclosing necessary information as claimed in prayer clauses (c) (i) to (xiii) of the writ petition.

3. Adjourned for four weeks. In the meantime, until further orders, no new rehabilitation scheme be sanctioned without the permission of this Court in respect of the open spaces which are reserved for gardens, parks, playgrounds, recreational spaces, maidans, no-development zones, pavements, roads and carriageways.

3. The learned counsel for the petitioners complained that in spite of the directions issued by this court in paragraph 2, respondent No.2, who has filed an affidavit, has not complied with the directions. It was also stated that unless the relevant material is made available and information is supplied, it would be difficult for the petitioners to proceed with the petition for reliefs prayed in the petition.

4. In the facts and circumstances, let further affidavit be filed by respondent Nos.1 and 2. Similarly, let an affidavit in reply be filed by respondent No.3 stating as to how the order has been complied with as it was stated that the relevant information has already been supplied by respondent No.3 to respondent No.1, State of Maharashtra.

5. The Division Bench also granted interim relief that no new rehabilitation scheme be sanctioned without the permission of the Court in respect of open spaces which were reserved for gardens, parks, playgrounds etc.

6. The learned Counsel for respondent Nos.1 and 2 submitted that at least to that extent, interim relief deserves to be vacated. In this connection, our attention was invited by the learned counsel to an order passed by this Court in Writ Petition No. 200 of 2002, wherein interim relief was not granted and the Court observed that all actions will be subject to final outcome of the petition. It was also submitted that the said order was taken to the Supreme Court and the Apex Court also did not interfere with the order.

7. In our opinion, the facts and circumstances in the present case are different. In that case what weighed with the Court was that in 1997 actions were taken. In the instant case, the Court has stated that no new rehabilitation scheme be sanctioned without the permission of the Court. It was also stated at the Bar that the said Writ Petition being Writ Petition No. 200 of 2002 is likely to come up for final hearing within a short

period. In the circumstances, in our opinion, there is no good ground to vacate interim relief granted by the Division Bench earlier. Hence, the earlier interim order is ordered to continue till further orders.

8. Affidavit in reply to be filed by respondent No.3 within two weeks from today. Further affidavit be filed by respondent Nos.1 and 2 within that period. Affidavit-in-rejoinder, if any, to be filed by the petitioners within one week thereafter.

9. Respondent Nos.1 and 2 to give inspection of records to the petitioners pertaining to particulars of the plots in respect of which proposals have been sanctioned since 1998, sanctioned plans which would show the areas where the slum dwellers are sought to be rehabilitated, the buildings which are for the free sale component and the reservation for normal space.

Parties be given copies of this order duly authenticated by the Associate/Private Secretary.

CHIEF JUSTICE

DR. D. Y. CHANDRACHUD, J.