

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO.11254 OF 2014

Mirza Kalimbeg S/o Mirza Ameeruddin Baig  
Age: 56 years, occu: business  
R/o Plot No.128, Motiwala Nagar,  
Near MGM Hospital, Behind Zilla Hospital,  
Aurangabad, Taluka & District – Aurangabad

Petitioner

Versus

1 The State of Maharashtra  
Through its' Secretary ,  
Urban Development Department,  
Manatralaya, Mumbai

2 The District Collector,  
Collectorate Aurangabad, District- Aurangabad

3 the Administrator,  
Satara Deolai Municipal Council,  
Taluka and District Aurangabad,

4 The Administrator,  
CIDCO, Aurangabad

Respondents

Mr.N.B. Suryawanshi h/f  
Mr. A.V. Patil advocate for the petitioner  
Mrs.A.V. Gondhalekar, AGP for Respondent No.1 & 2  
Mr. A.K.Tiwari & Mr. V.D. Kadam, advocates for  
respondent No.3  
Mr.A.S. Bajaj advocate for respondent No.4

CORAM : R.M. BORDE &  
P.R. BORA, JJ

Dated : 19<sup>th</sup> January, 2015.

**ORAL JUDGMENT**

(Per: R.M. Borde, J)

1 Rule. Rule made returnable forth with. Heard finally with the consent of the parties.

2 The petitioner is objecting to the notice dated 4.12.2014 issued by the Administrator, Satara Deolali Municipal Council, directing removal of unauthorized construction, allegedly raised by the petitioner.

3 Admittedly, the plot over which the construction is raised, admeasures about 2000 sq. feet. Admittedly, there is no permission and sanction of the plan, as contemplated under the MRTTP Act. We do not propose to go into the validity of the action of the petitioner at this stage. However, in the facts and circumstances of the case, we deem it proper to relegate the petition to the Chief Officer. The petitioner may tender an appropriate application, seeking development permission or regularization of the construction, within a period of four weeks from today. If the petitioner approaches the Chief Officer with an appropriate application, the Chief Officer may consider the case of the petitioner, after affording opportunity of hearing and shall pass necessary orders.

4 The notice issued on 4.12.2014 shall not be acted upon for a period of six months. The Chief Officer to take appropriate decision pursuant to the steps taken by the petitioner as expeditiously as possible and preferably within a period of six months from today. Till then, no coercive action shall be taken by the Municipal Council. It would be open for the Chief Officer or the Administrator of the Municipal Council to take appropriate action depending upon the decision on the application, which the petitioner proposes to tender, with the planning authority i.e. Municipal Council. By interim order passed by this Court on 10.12.2014, the petitioner has deposited a sum of Rs.10 lakhs, with the planning authority. This Court has directed the planning authority to keep the amount in a separate account and not to appropriate for any other purpose. The said directions shall remain in force until consideration of the application that would be tendered by the petitioner and it would be open for the planning authority or the administrator to issue appropriate orders in respect of amount deposited by the petitioner towards the deposit.

5 In the event of rejection of the prayer of the petitioner for grant of permission or for regularization, it would be for the Chief Officer to pass appropriate orders relating to the construction

raised as well as in respect of the amount deposited by the petitioner.

6 The petitioner shall not raise further construction without prior permission of the Municipal Council.

7 Rule is made absolute accordingly.

(P.R. BORA, J)

(R.M.BORDE, J)

vbd