

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.1232 OF 2015
IN
SECOND APPEAL NO.1050 OF 2004**

WITH

**CIVIL APPLICATION NO.1233 OF 2015
IN
SECOND APPEAL NO.1051 OF 2004**

Tukaram Khashaba Borge .. Applicant

vs.

Pralhad Mahadeo Arbune and Anr. .. Respondent

Mr.A.M.Kulkarni for the applicant

Mr.S.S.Kanetkar for the appellant

Mr.N.J.Patil for the respondent no.2

**CORAM : K.K.TATED, J.
DATED : 21/10/2015**

PC:

1 Heard the learned counsel for the parties.

2 These two applications are for directing respondent no.2 Karad Municipal Council to comply the order dated 8.8.2014 passed by this

court (Coram: Ravi K. Deshpande, J.) in Civil Application Nos.492 of 2014 and 491 of 2014 directing Council to take appropriate steps according to law for removal of illegal construction.

3 The learned council for the applicant submits that in the present proceeding, initially respondent no.2 issued notice dated 30.10.2014 to the parties to the Second Appeal calling upon them to submit their say if any, in respect of construction carried out by them without obtaining permission.

4 The learned counsel for the applicant further submits that thereafter Karad Municipal Council issued notice u/s 53(i) of the MRTP Act, 1966 to the parties to the Second Appeal calling upon them to remove unauthorised construction within 15 days from the receipt of the notice failing which they will take appropriate action as per section 55 of the said Act.

5 The learned counsel for the applicant submits that thereafter, from time to time, they requested respondent no.2 to take immediate steps against unauthorised construction and comply the order dated 8.8.2014 passed by this court in Civil Application Nos.492 of 2014 and 491 of 2014. He submits that Municipal Council failed and neglected to do so. Hence, they preferred the present Civil Application.

6 This application was on board for hearing on 14.10.2015. At that time, this court directed advocate for Municipal Council to file affidavit in reply explaining what steps they are going to take to comply the order passed by this court dated 8.8.2014. Pursuant to the

said order, Prashant Manoharrao Roda, Chief Officer of respondent no.2, filed Affidavit-in-Reply dated 17.10.2015. In the said reply respondent no.2 explained what steps are taken by them for complying the order dated 8.8.2014. In the reply, the said deponent failed to disclose the steps taken by them after issuing notice dated 27.4.2015 under section 53(i) of the MRTP Act, 1966. Apart from that, the Chief Officer of the respondent no.2 failed to make a statement within how much time they will comply the order passed by this court. This itself shows the way in which the respondent no.2 is interpreting the order passed by this court. Considering these facts, following order is passed:

- a) Respondent no.2 Karad Municipal Council is directed to comply the order passed by this court on 8.8.2014 in Civil Application No.492 of 2014 in Second Appeal No.1051 of 2004 and Civil Application Nos.491 of 2014 in Second Appeal No.1050 of 2004 within three months and submit the compliance report immediately thereafter.
- b) Civil application stands disposed off accordingly.

(K.K.TATED, J.)