

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3666 OF 2015

Smt. Sarita Surendra Tulpule. .. Petitioner
Vs
State of Maharashtra & Others. .. Respondents

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Shri Pralhad D. Paranjape for the Petitioner.
Shri V.S. Gokhale, AGP for Respondent No.1.
Shri Abhijit P. Kulkarni for the Respondent Nos.2 to 4.

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CORAM : A.S. OKA & A.PBHANGALE, JJ
DATED : 9TH APRIL 2015

P.C.

. Not on board. Taken on board.

2. Heard learned counsel appearing for the Petitioner, the learned AGP for the First Respondent and the learned counsel appearing for the Second to Fourth Respondents.

3. The learned counsel appearing for the Petitioner on instructions accepts that the structure subject matter of the impugned order has been constructed without obtaining Development Permission. He, however, states that a proposal for grant of Development Permission submitted by the Petitioner is pending with the Municipal Corporation. He invited our attention to the Exhibit-E to the Petition which shows that the proposal has been submitted through Shri Vinayak D. Gokhale,

Architect and the scrutiny fee has been paid on 12th July 2013. The learned counsel appearing for the Second to Fourth Respondents on instructions states that the proposal is still pending. Therefore, only a direction which can be issued in this Petition is to direct the Municipal Corporation to decide the proposal.

4. Hence, we pass the following order.

ORDER :

- (a) The legality and validity of the impugned order dated 23rd March 2015 (Exhibit-M to the Petition) is upheld;
- (b) Pending proposal of the Petitioner for grant of Development Permission shall be decided by the Appropriate Authority of the Third Respondent as expeditiously as possible and in any event within a period of two months from today;
- (c) The order passed on the proposal shall be communicated to the Petitioner or to the licensed Architect of the Petitioner;

- (d) Till the date of the communication of the order passed on the said proposal to the Petitioner or licensed Architect of the Petitioner, whichever is earlier, the order/notice dated 23rd March 2015 shall not be implemented;
- (e) If the order passed on the proposal be adverse to the Petitioner, the limited protection granted as above shall continue to operate for a period of one month from the date of the service of the communication of the said order to the Petitioner or her Architect, whichever is earlier;
- (f) We make it clear that we have not made any adjudication on the merits of the pending Application and all questions are kept open;
- (g) The Petition is disposed of on above terms;
- (h) The parties to act upon an authenticated copy of this order.