

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.9665 OF 2012
WITH
WRIT PETITION NO.10268 OF 2012
WITH
CIVIL APPLICATION NO.1122 OF 2013

WP NO.9665 OF 2012

M/s. Ozone Infra Projects.	..	Petitioner
Vs		
State of Maharashtra, Through the Principal Secretary, Urban Development Department, and Ors.	..	Respondents
—		

WP NO.10268 OF 2012

Abhishek Sheth.	..	Petitioner
Vs		
State of Maharashtra & Others.	..	Respondents
—		
Shri J.G. Reddy (Aradwad) for the Petitioner.		
Shri V.P. Malvankar, AGP “A” Panel for Respondent No.1.		
Shri C.G.Gavnekar for the Respondent No.2.		
Shri K.P. Anilkumar for the Respondent No.3.		

C.A.NO.1122 OF 2013

Abhishek Sheth.	..	Applicant
In the matter between:		
M/s. Ozone Infra Project.	..	Petitioner
Vs		
State of Maharashtra & Others.	..	Respondents
—		

Shri K.P. Anilkumar for the Petitioner in WP No.9665 of 2012 and for the Respondent No.3 in WP No.10268 of 2012.

Shri V.P. Malvankar, AGP "A" Panel for Respondent No.1 in both the Petitions.

Shri J.G. Reddy (Aradwad) for the Petitioner in WP No.10268 of 2012 and for the Applicant in the Civil Application No.1122 of 2013.

Shri C.G.Gavnekar for the Respondent No.2 in both the Petitions.

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CORAM : A.S. OKA & A.PBHANGALE, JJ
DATED : 26TH MARCH 2015

P.C.

. The learned counsel appearing for the Petitioner in Writ Petition No.9665 of 2012 seeks permission to withdraw this Petition with liberty to apply for regularization in respect of the second and third floors constructed by the Petitioner.

2. The very fact that the Petitioner is seeking permission to apply for regularization shows that the Petitioner is accepting that the second and third floors have been constructed without obtaining permission of the Competent Authority.

3. The Writ Petition No.10268 of 2012 has been filed by the Petitioner who is seeking an action of demolition of the second and third floors of the building constructed by the third Respondent in the said Petition. As the Petitioner in the Writ Petition No.9665 of 2012 wants to apply for regularization, at this stage, Writ Petition No.10268 of 2012 need not be entertained.

4. Accordingly, we pass the following order:

ORDER :

- (a) Writ Petition No.9665 of 2012 is disposed of as withdrawn;
- (b) It will be open for the Petitioner in the Writ Petition No.9665 of 2012 to apply for regularization of the second and third floors within a period of one month from today;
- (c) If an Application for regularization of the second and third floors is made by the Petitioner to Alibag Municipal Council within a period of one month from today, the same shall be decided within a period of two months from the date on which Application is received by the Alibag Municipal Council;
- (d) The order passed on the Application be communicated by the Alibag Municipal Council to

the Petitioner or to the licensed Architect of the Petitioner;

- (e) Till the date of communication of the order passed on the Application for regularization to the Petitioner or its licensed Architect, whichever is earlier, the ad-interim relief granted on 9th October 2012 will continue to operate;
- (f) If the order passed on the Application for regularization be adverse to the Petitioner, the ad-interim relief will continue to operate for a period of one month from the date on which the order is served to the Petitioner or its licensed Architect, whichever is earlier;
- (g) If the Petitioner fails to apply for regularization within the stipulated period of one month from today, it will be open for the fourth Respondent to proceed with the work of demolition of the second and third floors;

- (h) All contentions on merits of the Application for regularization are kept open;
- (i) Civil Application No.1122 of 2013 does not survive and the same is disposed of;
- (j) Writ Petition No.10268 of 2012 is not entertained for the time being and the same is disposed of with liberty to the Petitioner to file a fresh Petition if an occasion for filing a Petition arises;
- (k) All concerned to act upon an authenticated copy of this order.

(A.PBHANGALE, J)

(A.S. OKA, J)