

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
WRIT PETITION NO.10181 OF 2013

Viom Infra Networks (Maharashtra) Ltd. .. Petitioner
Vs
The State of Maharashtra and Others. .. Respondents
—
Shri Hiten S. Venegaonkar for the Petitioner.
Mrs. M.P.Thakur, AGP for the Respondent No.1.
Ms. Jasmine Upadhye i/b M.V.Kini & Co for the Respondent No.2.
Shri Shriniwas S. Patwardhan for the Respondent No.3.
Shri N.V.Ingulkar for the Respondent No.5.

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CORAM : A.S. OKA &
VLACHLIYA, JJ
DATED : 12TH OCTOBER 2015

P.C.

. Heard the learned counsel appearing for the Petitioner.
The first contention of the Petitioner is that the Application made by the Petitioner for grant of development permission was not decided by the Malegaon Municipal Corporation within a period of 60 days as contemplated by Sub-section (5) of Section 45 of the Maharashtra Regional and Town Planning Act, 1966 (for short “MRTP Act”) and hence, the development permission is deemed to have been granted. The learned counsel appearing for the Malegaon Municipal Corporation produced for perusal of this Court a communication dated 27th September 2013 addressed to the Petitioner by which the Application

made by the Petitioner for grant of permission to erect a mobile tower has been rejected. A copy of the said communication dated 27th September 2013 has been handed over to the Advocate for the Petitioner in open Court.

2. As far as the submission based on the deemed permission is concerned, the Application at Exhibit-E which is relied upon by the Petitioner is not addressed to the Planning Authority which is competent to grant development permission under the MRTP Act. Moreover, nothing is placed on record to show that any Application for grant of development permission was filed by the Petitioner in the prescribed format to the Planning Authority. Therefore, the plea based on the deemed permission will have to be rejected.

3. Now it reveals that the Application made by the Petitioner to the Planning Authority for grant of development permission has been rejected. Therefore, the Petitioner will have to adopt appropriate remedy in accordance with law.

4. Hence, no relief shall be granted to the Petitioner in this Writ Petition under Article 226 of the Constitution of India. Accordingly, the Petition is disposed of. However, the ad-interim relief granted on 28th October 2013 will continue to operate for a period of

four weeks from today to enable the Petitioner to adopt appropriate remedy.

5. Civil Application No.2499 of 2015 does not survive and the same is disposed of.

(V.L. ACHLIYA, J)

(A.S. OKA, J)