

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.1450 OF 2012
ALONG WITH
NOTICE OF MOTION NO.81 OF 2015

WP No.1450 of 2012

Parveen Yakub Khan & Another .. Petitioners
Vs
The State of Maharashtra & Others.
—

NM NO.81 OF 2015

Parveen Yakub Khan & Another. .. Applicants

In the matter between-

Parveen Yakub Khan & Another. .. Petitioners
Vs
The State of Maharashtra & Others .. Respondents
—

Shri Mukesh Subramaniam for the Petitioners.
Shri Vinod Mahadik for Respondent No.1 BMC.
Shri Rajiv Mane, AGP for Respondent No.1 State.

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

P.C.

. Additional compilation is tendered by the learned counsel appearing for the Petitioners. Additional compilation shows that on 15th March 2014, the Municipal Corporation has issued intimation of the disapproval under Section 346 of the Mumbai Municipal Corporation Act, 1949. By the Notice of Motion, in effect, the Petitioners are challenging the Condition No.44 incorporated in the Intimation of Disapproval (IOD) regarding obtaining of No Objection Certificate from the Maharashtra Coastal Zone Management Authority (MCZMA).

2. According to the case of the Petitioners, the condition imposed of obtaining No Objection Certificate from the MCZMA is illegal.

3. Now that the IOD has been granted. Either the Petitioners will have to comply with the said Condition No.44 incorporated in the IOD or if the Petitioners are aggrieved by the said condition, the Petitioners will have to challenge the said condition by filing appropriate proceedings in accordance with law.

4. The prayer made in the Notice of Motion No.81 of 2015 is for dispensing with the No Objection Certificate of the MCZMA. The second prayer is for directing the Municipal Corporation to issue commencement certificate. So long the Condition No.44 in the IOD stands, no relief can be granted to the Petitioners in this Notice of Motion, inasmuch as in the main Writ Petition, there is no challenge to the Condition No.44 incorporated in the IOD.

5. In view of the subsequent development of grant of IOD, the Petition need not be entertained.

6. Hence, we pass the following order.

ORDER :

- (a) We dispose of the Petition and the Notice of Motion by granting liberty to the Petitioners to take out appropriate proceedings in accordance with law for challenging the Condition No.44 in the Intimation of Disapproval;
- (b) If the Petitioners are accepting the legality and validity of the Condition No.44 in the IOD, it will be open for them to make an Application to the Maharashtra Coastal Zone Management Authority for grant of No Objection Certificate;
- (c) If such application is made by the Petitioners to the MCZMA, the same shall be decided as expeditiously as possible and in any event within a period of three months from the date on which the said Application is made;
- (d) All concerned including the MCZMA shall act upon an authenticated copy of this order.

(A.PBHANGALE, J)

(A.S. OKA, J)