

SQP

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION (LODGING) NO. 393 OF 2015
IN
PUBLIC INTEREST LITIGATION NO. 45 OF 2012**

Elia Sarwat School

...Applicant

IN THE MATTER BETWEEN :

Ali Asgar Mohammed Tahsildar

...Petitioner

Versus

State of Maharashtra & Ors.

...Respondents

Mr. Tushar Gujjar with Mr. Ameet Mehta I/b Solicis Lex for the Applicant

Mr. Sushil Upadhye I/b Mr. A. M. Saraogi for the Petitioner

Mr. J. S. Saluja, A.G.P for the Respondent – State

Ms. Neha Bhide for the Respondent – MHADA

Ms. Trupti Puranik for the Respondent – BMC

**CORAM : A. S. OKA &
REVATI MOHITE DERE, JJ.
MONDAY, 13th JULY, 2015**

P.C. :

1. The learned Counsel appearing for the applicant (Elia Sarwat School) states that the applicant has accepted the order dated 22nd June, 2015 passed by the Tahsildar (Encroachment), Malad, by which it is held that the applicant has encroached upon Government land to the extent of

353.80 sq. mtrs. out of Survey No. 263 and City Survey No. 2841. On instructions he states that the applicant wants to apply for regularization in accordance with Section 51 of the Maharashtra Land Revenue Code, 1966.

2. He further states that the applicant is running school in the encroached land and therefore time be granted to the applicant to apply for regularization.

3. Hence, from the aforesaid statements, it is very clear that the applicant is running the school by encroaching upon Government land to the extent of area of 353.80 sq. mtrs. We are showing indulgence to the applicant only in view of the fact that the applicant is running a school on the encroached area.

4. Accordingly we dispose of the Notice of Motion by passing the following order:

ORDER

(a) It will be open for the applicant to apply for regularization in accordance with Section 51 of the

Maharashtra Land Revenue Code, 1966 within a period of three months from today.

(b) If the applicant fails to apply for regularization within a period of three months from today, the State Government shall take action of removal of the encroachment of the applicant immediately on expiry of three months from today.

(c) In the event application for regularization is made within the stipulated time, the same shall be decided by the Appropriate Authority of the State Government within a period of two months from the date of filing of the application.

(d) Order passed on the application be communicated to the applicant.

(e) If the said order be adverse to the applicant, effect shall not be given to the said order for a period of one month from the date of service of the order to the applicant.

(f) Notice of Motion disposed of on the above terms.

(REVATI MOHITE DERE, J.)

(A. S. OKA, J.)