

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
REVIEW PETITION (L) NO.38 OF 2015
IN
WRIT PETITION NO.871 OF 2015

Sarina Esmeralda Lopes. .. Petitioner
Vs
Vijay Kalantri and Others. .. Respondents

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Ms. Sarina E. Lopez, the Review Petitioner in person.
Shri N.V. Walawalkar, Senior Counsel along with Shri Vinod Mahadik for the BMC.
Shri Vineet Naik, Senior Counsel i/by Naik, Naik & Co for the Petitioner in WP No.871 of 2015.

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CORAM : A.S. OKA &
REVATEI MOHITE DERE, JJ
DATED : 28TH AUGUST 2015

P.C.

. Heard the third Respondent appearing in person who is seeking review of the order dated 10th August 2015 passed in Writ Petition No.871 of 2015. Her contention is that on the date on which the said order was passed, the Appeal under Section 47 of the Maharashtra Regional and Town Planning Act, 1966 at the instance of the Petitioner in the Writ Petition was time barred. Her contention is that if the said fact would have been taken into consideration, this Court would not have allowed the Writ Petitioner to prefer an Appeal. Her submission is that as the Appeal was barred by limitation, this Court ought not to have continued the ad-interim relief.

2. We have perused the order dated 10th August 2015. The Petitioner sought permission to withdraw the Writ Petition on the ground that he was desirous of preferring an Appeal under Section 47 of the said Act of 1966. Therefore, this Court permitted him to withdraw the Writ Petition with liberty to prefer an Appeal. This Court has not decided the issue whether the Appeal was within the limitation or whether the Appeal was maintainable. It is for the Appellate Authority to decide whether the Appeal which may have been preferred by the Petitioner is maintainable and whether it is barred by limitation. Notwithstanding the liberty granted by this Court to the Petitioner to prefer an Appeal, the issue of maintainability of the Appeal as well as the issue of bar of limitation always remain open.

3. Therefore, subject to what is observed above, no case is made out for review. Subject to above clarification, the Review Petition is rejected.

(REVATI MOHITE DERE, J)

(A.S. OKA, J)