

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.799 OF 2016

Sou. Babubai Dnyandeo Pawar. .. Petitioner
Vs
The Pune Municipal Corporation and Others. .. Respondents
--
Shri Ashutosh M. Kulkarni for the Petitioner.
Shri V.B. Thadhani, AGP for the Respondent No.1.
Shri Rajdeep S. Khadapkar for the Respondent Nos.2 to 7.
--

CORAM : A.S. OKA & C.V. BHADANG, JJ
DATED : 23RD FEBRUARY 2016

P.C.

1. Heard learned counsel appearing for the Petitioner and learned counsel appearing for the second to seventh Respondents. The learned AGP represents the first Respondent.

2. Today the undertaking of the Petitioner is tendered by the learned counsel appearing for the Petitioner which is taken on record and marked "X1" for identification.

3. By this Petition under Article 226 of the Constitution of India, the challenge is to the notices issued by the first Respondent Pune Municipal Corporation on 20th May 2015 and 29th December 2015. It is stated in the said notices that the Petitioner has carried out illegal RCC construction of the ground + 2 upper floors.

4. In the undertaking tendered today, the Petitioner has stated that she desires to apply for regularization of the work subject matter of the impugned notices. Thus, the Petitioner has accepted that the works subject matter of the impugned notices have been carried out without obtaining Development Permission. Clause (3) of the said undertaking reads thus:

“3. I hereby undertake to this Hon'ble Court that I will abide by and comply with the decision that may be passed by the first Respondent Municipal Corporation on my regularization application. I shall on my own demolish and/or pull down the offending structure within a period of ninety days from the date of receipt of the same, in case the same is adverse to me, by reserving my statutory right to file appeal.”

5. In view of the undertaking, we need not keep the Petition pending and the same is disposed of by passing the following order:

ORDER :

- (a) It will be open for the Petitioner to make an application for regularization of the offending structure to the first Respondent Pune Municipal Corporation within a period of one month from today. The Application shall be filed through a Licensed Architect in the prescribed format;

- (b) If such application for regularization is made by the Petitioner, the first Respondent Municipal Corporation shall decide the same as expeditiously as possible and in any event, within a period of 60 days from the date on which the application for regularization is made;
- (c) Order passed on the application for regularization shall be communicated to the Petitioner or to the Architect appointed by the Petitioner;
- (d) Till the date of communication of the said order to the Petitioner or to the licensed Architect of the Petitioner, whichever is earlier, the action of demolition shall not be taken on the basis of the impugned notices;
- (e) If the order passed on the application for regularization be adverse to the Petitioner, the action of demolition shall not be taken on the basis of the impugned notices for a period of 90 days from the on which the order is served to the Petitioner or to his licensed Architect, whichever is earlier. In such

event, if on the expiry of the said period of 90 days, if there is no prohibitory order passed by the Appellate Authority and if the Petitioner fails to abide by the undertaking filed today, the first Respondent Municipal Corporation shall immediately take action of demolition in terms of the impugned notices without any further notice to the Petitioner, if necessary, with the help of police;

- (f) Needless to state that on failure of the Petitioner to apply for regularization within a period of one month as aforesaid, the first Respondent shall take action of demolition on the expiry of the said one month;
- (g) All the contentions on the application for regularization are kept open;
- (h) The Petition is disposed of on above terms;
- (i) The parties to act upon an authenticated copy of this order.