

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3798 OF 2016

Harinishbhai C Patel	..Petitioner
Versus	
The Collector, Thane and ors	..Respondents

Mr. R. D. Suryawanshi, for the petitioner.
Mr. V. M. Mali, AGP for the Respondent State.

**CORAM : RANJIT MORE &
DR. SHALINI PHANSALKAR JOSHI, JJ.**

DATE : 31st MARCH, 2016.

P. C. :

1. Heard learned counsel for the respective parties.
2. By the order dated 9.11.2015, respondent No.1 has rejected petitioner's application for regularization of construction carried out, on plot No.504, 502/5 and 502/1, situate at Shahapur, District Thane.
3. On 17.3.2016, respondent No.3 issued notice to the petitioner thereby directing the petitioner to remove the unauthorized construction on the said city survey. The petitioner thereafter filed an appeal before Respondent No.4, under Section 47 of the Maharashtra Regional and Town Planning Act 1966, challenging the order passed by respondent No.1 dated 9.11.2015. On the same day, the petitioner also filed Miscellaneous Application for stay.
4. The grievance of the petitioner is that the concerned Minister before whom appeal has been preferred may not be available due to ensuing Session for some days to pass appropriate orders on the

Miscellaneous Application. The petitioner, therefore, apprehends that in the absence of directions from this Court, the construction which is alleged to be as, "unauthorized" will be demolished. The counsel contends that the said construction is carried on, on his own land after obtaining permission from the Gram Panchayat Shahapur and prior to application of the "Regional Plan" sanctioned to the said area of Gram Panchayat. He further submits that the allegation is that the petitioner has constructed an area of 29.44 sq meter in excess, on the said land. This excess construction can be regularized under Section 44 of the MRTP Act.

5. The learned AGP submits that the petitioner's appeal under Section 47 of the MRTP Act will be disposed of expeditiously.

6. In the above circumstances, this petition can be disposed of by directing respondent No.4 to decide petitioner's appeal under Section 47 of the MRTP Act a copy of which is annexed at Exhibit "E" to this petition, as expeditiously as possible and in any case preferably within a period of 8 weeks from the date of receipt of this order.

7. In the event if the appeal is not taken up for final hearing then respondent No.4 shall dispose of petitioner's Miscellaneous Application for stay, copy of which is annexed as Exhibit "F" within above period.

8. During pendency of the said Miscellaneous Application, the execution, implementation and operation of the order dated

9.11.2015 passed by respondent No.1 as well as notice dated 17.3.2016 issued by respondent No.3 shall stand stayed. Ordered accordingly.

9. It is made clear that all the points and contentions raised by respective parties are expressly kept open and the respondent No.4 shall dispose of petitioner's appeal independently on its own merits.

10. The Petition is disposed of in above terms.

[DR. SHALINI PHANSALKAR JOSHI, J.]

[RANJIT MORE, J.]