

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

***CIVIL APPLICATION NO. 152 OF 2016
IN
APPEAL FROM ORDER NO. 188 OF 2014***

Smt.Kashmira Prakash Patel

... Applicant/
Appellant

v/s

Municipal Corpn. Of Gr. Mumbai & ors.

... Respondents

Mr.Hemant Ghadigaonkar for the applicant/appellant.

Mr.A.V. Diwate for the respondent Corporation.

CORAM: N.M. JAMDAR, J.

DATED : 15 MARCH 2016

P.C.:

By this application, the Applicant seeks to extend the time granted by this Court by order dated 19 August 2014.

2 The Applicant had filed an Appeal from Order (St.) No.20767 of 2014, which came up before this Court on 19 August 2014. At that time, the Appellant tendered an undertaking which undertaking was taken on record on 19 August 2014 and marked 'X'. In the appeal, the Applicant had challenged the action of the Municipal Corporation seeking to demolish the suit premises. After the undertaking was taken, the statement of the learned counsel for

the Appellant to withdraw the appeal and the suit, and that within 12 weeks the Applicant will submit proposal for regularization was recorded. Twelve weeks expired on 18 October 2014 and the application is taken out one year after the order is passed on 10 August 2015 and has come up on board today in regular course.

3 The request of the learned counsel for the Applicant for extension of time cannot be granted. The suit structure is unauthorized. The Applicant has accepted this position and has sought time to move an application for regularization. If the Applicant did not have requisite documents, the Applicant would not have given such an undertaking. If the documents were not available, the Applicant would have moved the Court within a period of twelve weeks. Nothing is done for a period of one and half years. It appears that the Applicant is only interested in somehow prolonging the occupation of the unauthorized construction. The Division Bench in Writ Petition No.1096 of 2015 has noted that, the stand that the Petitioner is not in position to make an application of regularization unless copy of development plan is provided, was not raised when the appeal was disposed of.

4 In the circumstances, the civil application cannot be considered and is accordingly rejected.

(N. M. JAMDAR, J.)