

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11662 OF 2015

Bhaskar Ladkya Mhatre.

..Petitioner.

Versus

The Managing Director, CIDCO
& Others.

..Respondents.

Mr. Rahul Thakur for the Petitioner.

Mr. Ashutosh M. Kulkarni for Respondent Nos. 1 to 4.

Ms. A. D. Vhatkar, AGP for Respondent Nos. 5 to 9.

Coram : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.

Date : **July 11, 2016.**

P. C. :

1. Heard the learned Counsel appearing for the respective parties.

2. This petition is filed challenging the notices dated 21st February 2011 and 6th July 2015 issued by Respondent No.3 under section 53(1) of the Maharashtra Regional and Town Planning Act, 1966. It is the case of the Petitioner that he has already filed an application dated 27th April 2011 for regularisation under section 53(3) of the MRTP Act and without disposing of this application and during the pendency of the same, the impugned notice dated 6th July 2015 is issued.

3. In the light of above facts, this Court by the order dated 26th November 2015 directed that no action in pursuance of the impugned notices shall be taken. However, the said order was made subject to the Petitioner's filing an undertaking within a week to the effect that in the event the application for regularisation made by the Petitioner is rejected by the planning authority, the Petitioner shall himself remove the offending structure.

4. By the order dated 4th January 2016, the undertaking given by the Petitioner was accepted by this Court. The Court also directed the Corporation to dispose of the Petitioner's application for regularisation, namely, the application dated 27th April 2011 expeditiously and in any event within two months. The Court also directed that in the event the order be adverse to the interest of the Petitioner, the same shall not be implemented for the period of 90 days from the date of communication thereof to the Petitioner.

5. It is brought to our notice that the order dated 4th January 2016 was not complied with by the authority within the stipulated time. The Respondent-Authority has, however,

rejected the Petitioner's application thereafter by the order dated 7th July 2016.

6. The Respondent-Authority has filed affidavit giving circumstances in which the order of this Court could not be complied within the stipulated time. The Additional Land Survey Officer has also tendered an unconditional apology. In the light of reasons given in paragraph 3 of the affidavit, apology is accepted.

7. The Respondent-Authority, however, has not given any justification as to why the Petitioner's application dated 27th April 2011 for regularisation remained pending for over five years. Mr. Kulkarni, the learned Counsel appearing for CIDCO after taking instructions from the officer present in the Court, namely, Mr. Anil Patil, Additional Chief Land Survey Officer (Garjepoti), assured this Court that utmost care would be taken for disposing of the regularisation applications within two months from the date of receipt of the application in his department. He also submitted that sometimes the delay is caused as the applications are addressed to other authorities and not received by the authority which is concerned. Mr.

Kulkarni submitted that directions would be given to all concerned in case an application for regularisation is received by them, to forward such applications to the appropriate authority as expeditiously as possible and at any rate within the period of two weeks from the date of receipt of such applications. Statement is accepted.

8. In the light of above statement, the delay in disposing of the Petitioner's application for regularisation is condoned. The show cause notice is accordingly dismissed.

9. Mr. Thakur, learned Counsel appearing for the Petitioner submitted that the petition may be disposed of and interim order granted by this Court be continued in order to enable the Petitioner to approach the appellate authority.

. Mr. Kulkarni, the learned Counsel appearing for the CIDCO, however, invited our attention to the order dated 26th November 2015 and submitted that no orders of the interim nature are required to be passed.

10. A perusal of the order dated 26th November 2015 discloses that the ad-interim order in favour of the Petitioner was granted subject to his giving undertaking that in the event the

regularisation application of the Petitioner is rejected, the Petitioner would himself remove the offending structure at his own cost. The Petitioner has accordingly filed an undertaking in this Court on 30th November 2015 to remove the offending structure within the period of three months from the date of receipt of the order of rejection. In view of the said undertaking, this Court by the order dated 4th January 2016 directed the parties to maintain status quo and in the event the orders on regularisation application be adverse to the interest of the Petitioner, limited protection was to remain in force for further period of 90 days from the date of service of such order on the Petitioner. In view of the above, we do not propose to pass any order of further protection. The earlier order takes care of the Petitioner's interest. Petition is dismissed. Needless to state that the Petitioner is at liberty to exhaust the remedy of statutory appeal.

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]