

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12207 OF 2015

Shri Vishwas Jairam Mhatre. ... Petitioner.
V/s.
City & Industrial Department Corporation & ors. ... Respondents.

Sudhir Prabhu for the petitioner.
Kamlesh Ghumre for respondent Nos.1 & 2.

CORAM : A.S. OKA AND C.V.BHADANG, JJ

DATED : 29th January 2016.

PC. :

Not on board. Taken up on board.

2. Heard the learned counsel for the petitioner and the learned counsel appearing for the first and second respondents. The undertaking filed by the petitioner affirmed on 27th January 2016 is taken on record and marked "A-1" for identification.

3. The application made by the petitioner for regularization of the offending structure is pending with the first and the second respondents.

4. In view of the solemn undertaking filed by the petitioner, a limited protection deserves to be granted to the petitioner.

5. Hence we pass the following order:

ORDER

(i) We direct the first and second respondents to take appropriate decision on the pending application of the petitioner for regularization

within a period of two months from today. The said decision shall be communicated to the petitioner;

(ii) The undertaking of the petitioner tendered today and marked as Exh.A-1 is accepted. In view of the undertaking, we direct that till the date of communication of the order passed on the regularization application, the action of demolition shall not be taken on the basis of the impugned notice dated 4th September 2015, subject to the condition that the petitioner shall not carry out any further construction;

(iii) If the order on regularization application be adverse to the petitioner, the aforesaid limited protection shall continue for a period of two months from the date of communication of the said order to the petitioner;

(iv) In the event the application for regularization is rejected, on the failure of the petitioner to demolish the structure subject matter of this petition within a period of two months from the date on which the order is communicated to the petitioner, without prejudice to the other remedies which may be adopted by the first and second respondents, they will be entitled to demolish the structure subject matter of this petition without issuing any further notice to the petitioner. In such event, on an application made by the first and second respondents, the officer in-charge of the concerned local police station shall provide necessary police aid and assistance to the first and second respondents for the demolition of the offending structure.

(v) The petition is disposed of in the above terms.

(C.V. BHADANG, J)

(A.S.OKA, J)