

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO.239 OF 2015
WITH
CIVIL APPLICATION NO.296 OF 2015**

Smt. Radha Vithal Shetty **..Appellant /Applicant**
Vs.
The Municipal Corporation of Gr. Mumbai & ors. **..Respondents**

Mr. Rajiv Chavan Senior Advocate a/w Mr. O. M. Kulkarni for the Appellant
Mrs. M. R. Bhoir for the Respondents

CORAM : R. M. SAVANT, J.
DATE : 10th JUNE, 2016

P.C.

1 The Learned Senior Counsel Mr. Chavan appearing for the Appellant states that the Appellant has filed an application for regularisation of the structure which is a pump house. The said application was initially made to the Building Proposal Department of the Municipal Corporation of Greater Mumbai (in short MCGM) The said proposal submitted by the Appellant was replied to by the Building Proposal Department by the Assistant Engineer, Building Proposal L & N vide his letter dated 30-4-2015. The Appellant was directed to comply with the requisitions made in the said letter. It was further directed that the NOC of the Water Department may be produced. The Appellant accordingly vide Architect's letter dated 30-7-2015 had approached the Water Works Department of the MCGM. The Executive Engineer Water Works (Planning and Research) by his letter dated 1-9-2015 has informed the

Appellant to approach appropriate authority (concerned ward in the said case) to get necessary approvals. The Appellant through Architect's letter dated 30-7-2015 had already approached to the Assistant Engineer Water Works "N" ward for the purpose of obtaining necessary approvals as required by the Assistant Engineer Building Proposal vide letter dated 30-4-2015. However, the Learned Senior Counsel states that though compliance has been made by the Appellant as long back as on 2-9-2015, there is no decision or response from the MCGM till this date.

2 It is the submission of the Learned Senior Counsel appearing for the Appellant that in terms of regulation 30(c) of the Development Control Regulations, Greater Mumbai, it is permissible to construct the pump house in the open space. It is further the case of the Appellant that regulation 35(2)(ii) provides for the area covered by the features permitted in the open space. It therefore seems to be the case of the Appellant that the pump house is permissible under the Development Control Regulations in the open space. It is not for this Court to express an opinion on the said aspect as the said aspect is not for consideration of this Court. Since the application filed by the Appellant is pending before the MCGM, it is for the MCGM to take an appropriate decision thereon. The Learned Senior Counsel appearing for the Appellant seeks withdrawal of the above Appeal to pursue the application for regularization which is filed with the MCGM and which is pending and not

decided one way or the other. The Learned Counsel appearing on behalf of the MCGM harps upon a letter which bears stamp dated 16-06-2015 of the Executive Engineer, Building Proposal, E. S. II. However it seems that the Learned Counsel is not instructed of the further letter dated 1-9-2015 of the Executive Engineer Water Works (Planning & Research) as also the "P" form issued to the Appellant by the Assistant Engineer Water Works, 'N' Ward on 21-8-2015. The Appeal is accordingly allowed to be withdrawn. Since according to the Learned Senior Counsel for the Appellant the compliance of the requisitions have been made, the MCGM is expected to take a decision on the regularization proposal of the Appellant, one way or the other.

3 In view of the withdrawal of the Appeal, the Civil Application No.296 of 2015 does not survive and to accordingly stand disposed of as such.

[R.M.SAVANT, J]