

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7004 OF 2016

Sabir Sarwar Nirban

.. **Petitioner**

Versus

The State of Maharashtra and others

.. **Respondents**

Shri D. P. Palodkar, Advocate for the Petitioner.

Shri S. G. Karlekar, A.G.P. for the Respondents.

CORAM : **S. V. GANGAPURWALA &**
S. M. GAVHANE, JJ.

DATE : **16th November, 2017**

PER COURT :

1. Mr. Palodkar, the learned advocate for the petitioner states that order refusing building / development permission to the petitioner is per say illegal and on wrong premise. The statements of the adjoining plot holders has to be recorded by the officers concerned and not by the petitioner. The N.A. permission is for a large area and the construction permission is sought for a smaller area. According to the learned counsel, the land of the petitioner is situated in Murshet Gram Panchayat and in the order it is shown that the No Objection of Shendi Gram Panchayat is not obtained which is erroneous. Even the No Objection Certificat of irrigation department is obtained and is filed. According to the learned counsel, the respondent has not applied his mind while rejecting the permission.

2. Mr. Karlekar, the learned A.G.P. submits that whatever documents were placed on record are considered by the authority.

3. The petitioner contends that his land is situated within the limits of Murshet Gram Panchayat, so also, the N.A. permission is granted for a large area and the construction is being made in a smaller area which is permissible. It is for the authorities to record the statements of the adjoining land holders if they have any objections. It is also further submitted that the No Objection Certificate dated 5.11.2014 is submitted to the authority before passing the impugned order. The impugned order does not depict the consideration of the same.

4. In light of the above, the impugned order is quashed and set aside. The authority shall consider the documents placed by the petitioner on record in its correct perspective and take decision afresh, preferably within three (3) months. The petitioner may appear before the authority concerned on 27th November, 2017. The authority and respondent Nos. 2 to 4 shall also consider the application of the petitioner for extension of the time limit prescribed in the sanad and the building permission.

5. Considering the aforesaid aspect, writ petition is disposed of. No costs.

[S. M. GAVHANE, J.]

[S. V. GANGAPURWALA, J.]

marathe/Nov.17