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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2448 OF 2015

St.Joseph's Bethany Convent School ...Petitioner
vs.
The State of Maharashtra
and another ...Respondents

Mr.Pankaj J. Das for the Petitioner
Mr.A.I.Patel, Addl.G.P for the respondent No.1
Mr.S.M.Kamble for respondent No.2

CORAM : A.S.OKA, &
SMT.VIBHA KANKANWADI, JJ.
DATE : AUGUST 1, 2017

P.C.:

1 Heard the learned counsel for the petitioner. The learned counsel for the second respondent waives service. The learned AGP waives service for the first respondent. By this petition under Article 226 of the Constitution of India, the petitioner is challenging notice dated 4th March 2015 issued by the second respondent-Mumbai Municipal Corporation.

2 Initially, on 31st January 2013, notice under section 54 of the Maharashtra Regional and Town Planning Act, 1966 (for short 'MRTP Act') was served to the petitioner calling upon the petitioner to dis-continue the work of construction of a building admeasuring 80 meters X 80 meters. By the impugned notice issued under section 260 of the Maharashtra Municipal Corporation Act, 1949, the petitioner was

called upon to remove the structure.

3 On the last date, the learned counsel for the petitioner submitted that the petitioner has applied for regularization of the said structure under the provisions of the Regularization of Unauthorised Developments in the City of Ulhasnagar Act, 2006 (for short 'the said Act'). Today, the learned counsel for the second respondent-Municipal Corporation has tendered a compilation consisting of 11 pages which is taken on record and marked 'X-1' for identification. By pointing out documents in the compilation, he pointed out that the Designated Authority has called upon the petitioner to make various compliances including the payment of various amounts as well as compounding fees but the petitioner has not complied with the said requirements. He pointed out the correspondence made by the Designated Authority and other officers right from the year 2006 onwards. The learned counsel for the petitioner on oral instructions states that the amount could not be deposited as the same was not accepted.

4 In any event, the application made by the petitioner for regularization under the said Act is pending and hence, we dispose of this petition by passing the following order:

(I) We direct the authorised representative of the petitioner to remain present before the Designated Authority (District Collector,

Thane) on 24th August 2017 at 11.00 a.m. The representative of the petitioner shall produce an authenticated copy of this order on that date;

(II) Within a period of 15 days from the date fixed for appearance, the entire amount due and payable by the petitioner in terms of the said Act shall be communicated by the Designated Authority to the petitioner. Other compliances which are required to be made shall be also communicated to the petitioner within a period of 15 days from 24th August 2017;

(III) Compliances shall be made by the petitioner with the aforesaid requirements within a period of six weeks from the date on which the Designated Authority calls upon the petitioner to make compliances. If necessary compliances are made by the petitioner within the stipulated period, appropriate decision shall be taken on the proposal of the petitioner for regularization within a period of two months from the date on which compliances are made by the petitioner;

(IV) In the event of the failure of the petitioner to make compliances within stipulated period, the Designated Authority shall issue an intimation to the second respondent. In such event, the Designated Authority shall be entitled to take action of demolition in respect of the subject structure after serving an advance 15 day's notice to the petitioner;

- (V) If the application for regularization made by the petitioner is rejected, the action of demolition of the subject structure shall not be taken for a period of 15 days from the date on which the order is communicated to the petitioner;
- (VI) We make it clear that we have not made adjudication on the issue of eligibility of the petitioner to get the structure regularized and it is for the Designated Authority to decide the same in accordance with law;
- (VII) Writ Petition is disposed of on above terms.

(VIBHA KANKANWADI,J.)

(A.S.OKA,J.)