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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5076 OF 2016**

Shri Chandrakant Baburao Patil and Anr. ... Petitioners
Vs.
The State of Maharashtra and Ors. ... Respondents

Mr. Prajakt M. Arjunwadkar for the Petitioners.
Ms. N.M. Mehra, AGP for the Respondent Nos. 1 to 3.

**CORAM : A.S. OKA &
SMT. VIBHA KANKANWADI, JJ.**

DATE : 4th JULY, 2017

P.C.

1 The Petitioners made an application for revising the building permission earlier granted. The said application was forwarded to the third respondent - Town Planner at Palghar for scrutiny and for submitting his remarks. A limited grievance made in this Petition under Article 226 of the Constitution of India is that the third respondent has not scrutinized the proposal and has not forwarded his remarks.

2 There is an affidavit filed by Shri Pradeep Jayawant Thorat, Town Planner. In the said affidavit, it is pointed out that Additional Collector, Palghar has passed an order granting stay to the order dated

6th July, 2015 by which the permission for non-agricultural use was granted to the petitioners. The said order has been passed on 4th May, 2016. In the affidavit, it is stated that in view of the order of stay, the application cannot be processed by the third respondent.

3 The learned counsel appearing for the petitioners states that the petitioners have challenged the order dated 4th May, 2016 passed by the Additional Collector by filing a separate Petition.

4 From the affidavit of Shri Pradeep Jayawant Thorat, it appears that the order of stay dated 4th May, 2016 is the only impediment in the way of acting upon the communication dated 10th September, 2015 (Exhibit – H to the Petition). Hence, we need not keep the Petition pending and the same is disposed of by passing the following order :-

ORDER

- (i) As and when the stay granted by the Additional Collector by order dated 4th May, 2016 (Exhibit – 4 to the affidavit of Shri Thorat) is vacated, the third respondent shall process the proposal of the petitioners in terms of the communication dated 10th September, 2015;

- (ii) The third respondent shall submit his remark/ report on the proposal of the petitioners to the office of the District Collector, Palghar within a period of two months from the date on which the order of stay dated 4th May, 2016 is either vacated or set aside;
- (iii) All questions on merit are kept open;
- (iv) All concerned to act upon an authenticated copy of this order.

(SMT. VIBHA KANKANWADI, J)

(A.S. OKA, J)