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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5383 OF 2017

Cogent Enterprises Ltd.

.. Petitioner

Versus

1. Lonavala Municipal Council and ors.

.. Respondents

Mr. Atul Damale, Sr. Advocate with Samji Joseph and Somnath Gaikwad
i/by Uni Lex for petitioner.

Mr. A. A. Garge for respondent nos.1 to 3.

CORAM: NARESH H. PATIL &
DR. SHALINI PHANSALKAR-JOSHI, JJ.

MAY 03, 2017.

ORAL JUDGMENT (Per Naresh H. Patil,J) :

1. Rule. Rule is made returnable forthwith. Heard finally by
consent of the parties.

2. The petitioner prays for setting aside the notice dated
24/4/2017 under Section 53(1) of the Maharashtra Regional Town Planning
Act, 1966, issued by the Lonavala Municipal Council.

3. By an order dated 26/7/2016 the Division Bench of this Court (Coram: Ranjit More and Anuja Prabhudessai, JJ) disposed of the Writ Petition No. 8578 of 2016, filed by the present petitioner, with certain directions. Para 5 of the said order read as under:-

“5. In the interests of justice, during the pendency and till the disposal of the petitioner's application for regularization, both the parties to the petition shall maintain status-quo as of today regarding the offending structure which is the subject matter of the notice under challenge.”

4. Learned Senior Counsel appearing for the petitioner submits that the application is still kept pending by the respondent no. 1- Council. Instead, the respondent no.1 issued impugned notice dated 24/4/2017 (annexed at page 21 of the petition) for demolition of the subject structure. The petitioner prays for following substantive relief:

- “(a) That this Hon'ble Court be pleased to set aside the Notice dated 24/4/2017 as illegal, bad in law;
- (b) That this Hon'ble Court be pleased to issue a Writ in the nature of `mandamus' or any other nature as the Hon'ble

deem fit and proper directing the respondents not to take any further action on the basis of the impugned notice dated 24/04/2017 and not to demolish the structure till decision on the application for approval of revised plan submitted on 05/08/2016;

- (c) That show-cause notice for Contempt for Court may be issued against all respondents;

5. Learned counsel appearing for respondents – Council, on instructions from Mr. Pramod Punaji Dhanke, Assistant Town Planner, Lonavala, who is present in court, submits that Assistant Director, Town Planner, Pune Region, Pune informed about the deficiencies in the proposal by communication dated 21/11/2016. Learned counsel also refers to further communication dated 27/7/2016, based on which the respondents-Council issued the impugned notice under Section 53(1) of the MRTP Act, 1966.

6. It is surprising to note that though the Division Bench of this court issued direction on 26/7/2016 in Writ Petition No. 8578 of 2016, respondents-Council still issued the impugned notice dated 24/4/2017 informing the petitioner that subject structure would be demolished. The petitioner, therefore, prayed for issuance of show-cause notice for

contempt against the respondents. Instead of issuing notice at this stage, we direct the Chief Officer of the Lonavala Municipal Council to call for explanation from the officer who signed the impugned notice issued to the petitioner.

7. Learned counsel appearing for the respondents-Council submits that decision shall be taken on the proposal / application for regularization filed by the petitioner as expeditiously as possible and not later than four weeks from today.

8. In view of the statement made as above and directions given, we quash and set aside the impugned notice dated 24/4/2017 issued by the respondents-Council under Section 53(1) of the MRTP Act, 1966.

9. Rule is made absolute in the above terms.

10. Registry to forward a copy of this judgment to the Principal Secretary, Urban Development Department, Mantralaya, Mumbai.

(DR. SHALINI PHANSALKAR-JOSHI,J.)

(NARESH H. PATIL,J.)

