

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELATE JURISDICTION**

WRIT PETITION NO. 9249 OF 2017

Weichang Liang .. Petitioner

v/s.

Municipal Corporation of Greater Mumbai .. Respondent

Mr. Milan Desai a/w Mr. Mahesh Kotian, Mr. Vijendra Mishra for the
petitioner

Mr. Pradeep Patil for the respondent Corporation

CORAM : M.S. SANKLECHA, J.

DATED : 14th AUGUST, 2017

P.C.

1. This petition is moved for urgent admission and interim reliefs. By consent of the parties, the petition is being disposed of finally at this stage.

2. The petition challenges the order dated 31st July, 2017 passed by the City Civil Court at Mumbai. By the impugned order, the petitioner's application seeking condonation of delay of 467 days in filing the Review Petition of the order dated 30th April, 2016 was adjourned. However, the prayer for ad-interim stay of the order

dated 30th April, 2016, pending the condonation of the above application, was rejected.

3. Mr. Desai, learned Counsel appearing for the petitioner states that the Review Petition along with condonation of delay application in filing the Review Application has been kept for hearing on 29th September, 2017.

4. In the above view, he suggests that status-quo be maintained till 29th September, 2017 when a full fledged hearing would be given to the petitioner on its application for condonation of delay as well as the Review Petition. In the meantime, he prays that the respondent Corporation be restrained from demolishing the offending structure.

5. Mr. Patil, learned Counsel appearing for the Corporation opposes any such relief being granted.

6. I find that the impugned order dated 31st July, 2017 has not finally disposed of the condonation application for the delay in filing

the Review nor the Review Petition. It has while refusing the ad-interim relief, kept both for consideration after the respondent file its reply. Therefore, the issue is kept alive for consideration. Consequently, in said case if on fuller consideration, the Court comes to the view that the delay needs to be condoned and the Review is to be allowed, it would led to great injustice as the offending structure would have in all likelihood been demolished in the meantime. It would have been a completely different matter if the application for condonation of delay in filing the review itself was dismissed on 31st July, 2017 as not making out any case for condonation of delay.

7. In the above circumstances, it would be appropriate that till hearing the parties fully on 29th September, 2017 an ad-interim stay is granted of the impugned order dated 31st July, 2017.

8. Mr. Desai, learned Counsel appearing for the petitioner, on instructions, states that the petitioner undertakes that he will not seek adjournment on 29th September, 2017 and / or any adjourned date and will co-operate for early disposal of the condonation and review applications.

9. Therefore, in these facts, it would be appropriate that the respondents are restrained from demolishing the offending structure till the review application as well as application for condonation of delay in filing the review application is disposed of after hearing the parties on 29th September, 2017.

10. In the above facts, no useful purpose would be served by keeping the petition pending in this Court as the CMIS date will be after 29th September, 2017.

11. Accordingly, the Writ Petition is disposed of in the above terms.

(M.S. SANKLECHA, J.)