

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISIDCTION

CIVIL APPLICATION NO. 2266 OF 2017
IN
WRIT PETITION NO. 8402 OF 2017

Sunil Gurunath Revankar and others. ... Applicants.
V/s.
Pune Municipal Corporation and others. ... Respondents.

Mr.Shriniwas Patwardhan for the applicants.
Mr.Abhijit P. Kulkarni for respondent No.1.
Mr.Yuvraj P. Narvankar for respondent No.4.

CORAM : A.S.OKA AND RIYAZ I. CHAGLA, JJ.

DATE : 28th September 2017.

PC.:

Heard the learned counsel appearing for the applicants. As prayer is for modification of the order dated 2nd August 2017 passed by the Bench of which one of us (A.S.Oka, J.) is party, considering the principles laid down in sub-rule (2) of Rule 3 of Chapter XXX of the Bombay High Court Appellate Side Rules, this application is placed before this Bench.

2. Vide order dated 2nd August 2017, the City Engineer of the Pune Municipal Corporation has been

directed to give hearing to the applicants and pass an appropriate order in accordance with law on the basis of the show-cause-notice dated 5th October 2016.

3. The prayer in this application is for modification of the said order. The modification sought is that instead of the City Engineer, the Municipal Commissioner or any other officer appointed by him may be directed to hear the parties on the show-cause-notice. It is contended that the City Engineer has affirmed an affidavit in support of Civil Appeal filed by the said Municipal Corporation in the Supreme Court and also filed an affidavit before the National Green Tribunal on behalf of the Municipal Corporation. The contention of the learned counsel appearing for the applicants is that therefore, the applicants have right to question the City Engineer himself on the stand taken by him in the affidavits.

4. The learned counsel appearing for the Pune Municipal Corporation states that the show-cause-notice was issued by invoking powers under section 258 of the Maharashtra Municipal Corporations Act, 1949 and section 51 of the Maharashtra Regional and Town Planning Act, 1966. He states that the Municipal Commissioner has delegated his powers to the City Engineer to decide the show-cause-notice.

5. The question before the City Engineer is to decide whether the development permission granted in respect of the property in question needs to be revoked. The grounds on which the development permission is sought to be revoked are well within the knowledge of the applicants. Merely because the City Engineer has filed affidavits, he is not incompetent to decide the notice. He has to consider whether a case for revocation of the development permission is made out.

6. Hence, no case is made out for the modification of the order dated 2nd August 2017. Civil application is rejected.

(RIYAZ I. CHAGLA, J.)

(A.S.OKA, J.)