

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 65 OF 2017

Mr.Deepak S/o Rasiklal Shah and anr. .. Petitioners

Vs.

The State of Maharashtra and ors. .. Respondents

Mr.A.M.Saraogi, for the Petitioners.

Mr.H.S.Shreepad Murthy i/b Mr.Abhishek Patil, for Respondent No.3

Mr.Asif Patel, Addl. G.P for State.

Ms.K.H. Mastakar, for MCGM.

**CORAM : NARESH H. PATIL AND
M.S.KARNIK, JJ.**

13th JANUARY, 2017

P.C. :

. Learned Counsel appearing for the Corporation briefed by the Officer of the Corporation is not in a position to exactly say as to whether application for modification/regularization if filed earlier by the developer came to be rejected. The communication made by the Corporation addressed to the developer - Mr. Himanshu N. Shah on 17/10/2016 is placed on record today. It calls upon the developer to submit further details within 15 days on the receipt

of the said letter.

2. Learned Counsel appearing for the developer submits that he is yet to submit further reply and details as desired by the Corporation. Learned Counsel further states that the proper proposal for regularization would be submitted to the Corporation within 4 weeks from today with clarification as desired by the Corporation in the communication dated 17/10/2016.

3. According to the statement made by the learned Counsel counsel for developer, it seems that subject mall is already constructed in 2012 and around more than 118 offices & 10 flats were constructed in the complex and they are occupied by various persons.

4. Taking into consideration facts and circumstances, we find appropriate to allow the developer to file a proposal with the Corporation along with required explanation called for by the Corporation in the communication dated 17/10/2016.

5. The developer undertakes to file such application for regularization within 4 weeks from today. We direct that he shall submit the same accordingly to the Corporation. In case the developer fails to submit an application for regularization as stated above within stipulated period of 4 weeks, the Corporation is free to take action in accordance with law. The proposal for regularization shall be addressed to 'Building Proposal Department' of the Corporation.

6. We further direct that if such proposal is received by the Corporation submitted by the developer, then the same be dealt with in accordance with law. The decision shall be communicated to the developer within further 4 weeks from the date of receipt of said proposal. Till the decision is received by the developer, status-quo in respect of the shops, tenements, flats of the subject structures be maintained by the Corporation. In case the decision is adverse then, status-quo for further 2 weeks be maintained. The developer shall indicate the decision to the occupants of the subject structures. It is clarified that we

have not expressed any opinion on merits. All issues are kept open. Writ Petition stands disposed of.

(M.S.KARNIK, J.)

(NARESH H. PATIL, J.)