

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1213 OF 2017

Subham Fabrics LLP and Anr. .. Petitioners

Versus

Deputy Chief Engineer Building Proposal

City of MCGM and Ors. .. Respondents

Mr. Cyrus Ardeshir with Joran Diwan, Samudra Sarangi i/b. M/s.
Veritas Legal for petitioners Ms. Vandana Mahadik for respondent
Nos. 1 and 2.

CORAM : B.R.GAVAI &
M.S.KARNIK, JJ.

DATE : 25th September 2017.

P.C.

1] Rule. Rule made returnable forthwith. Heard by
consent.

2] The petitioner had submitted a proposal to respondent No.2
for approval of plans regarding redevelopment of property. It
appears that though the plans were submitted on 5th March 2013,
the same were not decided and as such the petitioner was required
to approach this Court by way of Writ Petition No.1303 of 2015.

Vide order dated 9th march 2017, the Court recorded statement of learned Counsel for the Corporation that the plans are not in consonance with the D.C. Regulations and that a appropriate communication would be made to the petitioner within a period of one week. Subsequent thereto, the impugned order is passed on 15th march 2017, hence, the present petition.

3] Learned Counsel for the petitioner submits that as per Regulation No.5(5)(i) the respondent Corporation is obliged to supply grounds on which the proposal is rejected. It is submitted that in the impugned order, no grounds are mentioned.

4] In an affidavit filed on behalf of respondent – Corporation by one Rajendra Jadhav, working as Assistant Engineer, Building Plan, certain reasons are sought to be given in support of the impugned order. However, in view of the law laid down by the Apex Court in the case of **Mohinder Singh Gill & Anr. Vs. Chief Election Commissioner, New Delhi, reported in A.I.R. 1978 S.C. 851** the reasons in the order impugned cannot be permitted to be supplemented by an affidavit, we find that since, the impugned order

does not give any grounds and as such is not in consonance with the Regulation No.5(5)(i) of the D.C. Regulations on this short ground the petition will have to be allowed.

5] Rule is accordingly made absolute. The order dated 15th March 2017 is hereby quashed and set aside. The Corporation is directed to consider the matter afresh by giving an opportunity of being heard to the petitioner or his representative and pass an order in accordance with law. This shall be done within three months from today.

(M.S.KARNIK, J)

(B.R.GAVAI, J.)