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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L)NO.1628 OF 2017

Sanjay Padmakar Patil ...Petitioner
vs.
Municipal Corporation for
Greater Mumbai and others ...Respondents

Mr.A.A.Gharte for the Petitioner
Ms Kenjali Mastakar for the respondent-MMC

CORAM : A.S.OKA, &
SMT.VIBHA KANKANWADI,JJ.
DATE : JULY 6, 2017

P.C.:

1 Heard the learned counsel for the petitioner and the learned counsel for the respondents. The petitioner made an application for carrying out repairs to his structure. On 18th February 2017, a notice under section 354-A of the Mumbai Municipal Corporation Act,1888 was issued by the first respondent-Mumbai Municipal Corporation to the petitioner stating therein that the petitioner has started illegal construction by using brick masonry wall and ladi coba. The petitioner replied to the said notice by a letter dated 23rd February 2017 and produced documents. After considering the said documents, on 17th June 2017, the first respondent passed an order holding that no document showing existence of the structure prior to the datum line was produced and hence, the structure was illegal. From the photographs produced on the earlier date, we found that the petitioner has made construction of a new house by removing the earlier

structure admittedly without obtaining the permission of the first respondent-Municipal Corporation.

2 Earlier orders passed by this Court show that the petitioners desire to apply for regularization and has deposited a sum of Rs.1,00,000/- in this Court. Today, the petitioner has tendered an undertaking dated 5th July 2017 in which he has undertaken to apply for regularization within a period of six weeks from today and to bring the same to its original condition within a period of six weeks from the date of the order passed by the Planning Authority, if it be adverse to him . The undertaking is taken on record and marked `X-1' for identification.

3 In view of the undertaking, we need not keep this petition pending as the petitioner has agreed to apply for regularization which shows that he has admitted that the structure subject matter of this petition is illegal. The petitioner has also deposited a sum of Rs.1,00,000/- in this Court.

4 Hence, we pass the following order:

(i) The undertaking dated 5th July 2017 (marked as `X-1') is hereby accepted;

(ii) It will be open for the petitioner to apply to the concerned Authority of the Mumbai Municipal Corporation for regularization of the said structure

within a period of six weeks from today. The application shall be made through a licenced Architect in a prescribed format. If such application is made within a period of six weeks from today, the first respondent-Corporation shall decide the same within a maximum period of 60 days from the date of filing the same;

(iii) The order passed on the application for regularization shall be communicated to the petitioner or to his licenced Architect;

(iv) Ad-interim relief granted by this Court on 23rd June 2017 will continue to operate till the date of communication of the order which may be passed by the first respondent-Corporation to the petitioner or to his licenced Architect, whichever is earlier;

(v) If the order passed on the application for regularization be adverse to the petitioner, the said protection will continue to operate for a period of six weeks from the date on which the order is communicated to the petitioner;

(vi) If the application for regularization is rejected and the petitioner fails to demolish the said structure within a period of six weeks from the date of communication of the order to the petitioner, the amount of Rs.1,00,000/- deposited in this Court shall stand forfeited and the said amount with interest accrued thereon, if any, will be paid over to the Municipal Corporation;

(vii) In the event of the failure of the petitioner to apply for regularization within a period of six weeks from today, the Mumbai Municipal Corporation shall proceed with the action of demolition of the subject structure without issuing any further notice to the petitioner;

(viii) Even in the event of the failure of the petitioner to apply for regularization within a period of six weeks from today, the amount of Rs.1,00,000/- deposited by the petitioner in this Court with interest accrued, if any, shall stand forfeited which shall be paid over to the Mumbai Municipal Corporation;

(ix) In the event, the proposal for regularization is sanctioned or the petitioner removes the entire illegal structures at his own costs within a period of six weeks from the date of communication of the order of rejection of his application to the petitioner or his licenced Architect whichever is earlier, it will be open for the petitioner to withdraw the amount of Rs.1,00,000/- with interest accrued thereon to the Registrar (Original Side);

(x) The writ petition is disposed of on above terms;

(xi) All concerned to act upon an authenticated copy of this order.

(VIBHA KANKANWADI, J.)

(A.S.OKA, J.)