

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

WRIT PETITION [Ld.] NO. 3677 OF 2017

MIG Cricket Club.

..Petitioner.

Versus

Mumbai Municipal Corporation and Another.

..Respondents.

Mr. P. J. Torat for the Petitioner.

Mr. R. S. Apte, Senior Advocate with Ms. Trupti Puranik and Sagar Patil for MCGM.

Mr. Sachin Ghewade, Asstt. Engineer, (B&F) H/E Ward of MCGM is present.

Coram : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.

Date : **December 22, 2017.**

P. C. :

1. Heard. The petition seeks to challenge the order dated 20th December 2017 passed by Respondent No.2, rejecting the Petitioner's applications dated 11th December 2017 and 14th December 2017. By the said applications, the Petitioner requested the Respondents to grant permission for erecting stage on small portion of the play ground, i.e., Site No.9 as shown in the development plan of Mumbai Municipal Corporation. The erection of the stage is proposed for the purpose of holding cultural program on the eve of Christmas, i.e., on 24th December 2017 and on the eve of new year, ie., on 31st December 2017. Applications are rejected on the ground that earlier the Petitioner had filed writ petition, being Writ Petition No.2862 of

2007 claiming similar reliefs and the same was rejected by the learned Single Judge of this Court. We have perused the record and also the order of the learned Single Judge in Writ Petition No.2862 of 2007. Perusal of the record reveals that permission similar to present was asked for by the Petitioner and it was rejected on the ground that such permission cannot be granted in view of the interim order dated 13th April 2017 passed by the Apex Court in Civil Appeal No. 2047 of 2007.

2. Admittedly, the said civil appeal is already disposed of by the Apex Court on 5th September 2011 and therefore interim order has come to an end. The reasons on which the impugned order is passed, therefore, cannot be sustained.

3. Mr. Apte, the learned Senior Counsel appearing for MCGM contended that permission as claimed by the Petitioner cannot be granted in view of provisions of section 37A of the MRTP Act. We have doubt whether section 37A of the MRTP Act has application in the present case inasmuch as the subject playground is owned by MHADA and the same is leased to the Petitioner and the Petitioner is in possession of the same.

4. Mr. Apte then invited our attention to Clause (c) of the lease agreement between the Petitioner and MHADA, and submitted that such activity cannot be conducted without prior permission of

MHADA. The learned Counsel for the Petitioner submitted that already on 7th December 2017 MHADA has given no objection permitting the Petitioner to hold cultural activity for limited period.

5. In the light of above, Mr. Apte, the learned Senior Counsel appearing for the MCGM, having taken instructions from his client who is present in the Court, states that the impugned order would be withdrawn and the Petitioner's applications dated 11th December 2017 and 14th December 2017 would be reconsidered in the light of observations made hereinabove and Respondent No. 2 would take fresh decision by tomorrow. Statement accepted.

6. At this stage, Mr Apte, learned Senior Counsel appearing for MCGM having taken instructions from his client makes a statement that Respondent No.2 will hear the representative of the Petitioner today at 4.00 p.m. and will pass appropriate order by tomorrow. Mr. Thorat, counsel for the Petitioner states that the Petitioner's representative will approach Respondent No.2 today at 4.00 p.m. Statements accepted.

7. In view of the above, nothing survives for consideration in the writ petition and the same is therefore disposed of.

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]