

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 1386 of 2018

Mr.Akhtar Abdul Bari Qureshi ... Petitioner

V/s.

The State of Maharashtra & ors. ... Respondents

Mr. Vishwanath Patil i/b. Yuvraj Patil for the petitioner.

Ms. Nisha Mehra, AGP for respondent no.1.

Mr.N.R.Bubna for respondents 2 and 3.

Mr. H.I. Sirgoroh i/b M.I.Khan for respondent no.6.

Mr. Ashwin V. Sakalkar for respondent no.4.

**CORAM : NARESH H. PATIL, ACTING C.J.
& G.S. KULKARNI, J.**

24th September, 2018.

P.C.

The petitioner is a member of respondent no.6 Society which is under re-development project. The petitioner's allegation is that the 10th floor has been illegally constructed and on 9th floor there is additional construction. The petitioner seeks direction to demolish the alleged illegal construction.

2. The learned Counsel appearing for Corporation submits that Developer has filed a Civil Suit in the Court of Civil Judge Senior Division, Thane bearing R.C.S.No.846/2017 before the Civil Judge, Thane challenging the notice issued by Corporation on 7th March, 2017 and an order dated 24th April, 2017 issued under Section 260 of MMC Act by the Designated Officer of the Corporation. The Civil Judge, Thane has passed status-quo order against the Corporation. The Counsel for Corporation submits that ad-interim order has been vacated on 31st July, 2018.

3. The said order has been challenged in an appeal filed by the Developer which is numbered as Misc. Civil Appeal No.138/2018. An ad-interim order has been passed by the Additional District Judge, Thane. The Counsel submits that Corporation is party to the appeal and necessary steps are being taken to prosecute the appropriate remedies on behalf of the Corporation.

4. The learned Counsel appearing for petitioner submits that apart

from 10th floor even 1st floor podium is illegally constructed.

5. We have not expressed any opinion on merits of the case. We direct the Corporation to look into grievances and take necessary steps in accordance with law. Without expressing any opinion on the merits of the appeal pending before the District Court, we direct the Additional District Judge, Thane to expeditiously deal with the interim application, if pending in the proceedings Ms. Civil Appeal No.138/18 on its own merits and dispose it of as expeditiously as possible.

6. Keeping all issues on merits open and with aforesaid observations and directions, Writ Petition stands disposed of.

7. The learned Counsel appearing for Corporation to bring this order to the notice of the Commissioner of concerned Corporation.

G.S.KULKARNI, J

ACTING CHIEF JUSTICE

L.S. Panjwani, P.S.