

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION (L) NO. 8595 OF 2018

Jamuna Tower Co-operative Society Ltd. ... Petitioner.
V/s.
Mira Bhayander Municipal Corporation
and others. ... Respondents.

Mr.Shriram S. Kulkarni for the petitioner.
Mrs.R.A.Salunkhe, AGP for respondent Nos.2 to 5.

CORAM : A.S.OKA & SANDEEP K. SHINDE, JJ.

DATE : 7th December 2018.

P.C.:

On 30th November 2018, the petition was adjourned till today to enable the learned AGP to take instructions.

2. The grievance made by the petitioner in this petition under Article 226 of the Constitution of India is mainly about the failure of the authorities under the Maharashtra Land Revenue Code, 1966 (for short “the said Code”) to certify the Mutation Entry No.239, a copy of which is annexed as Exhibit-L to the petition. The mutation entry is made on the basis of a sale-deed relied upon by the petitioner. The case made out by the petitioner is that unless the name of the petitioner-society is mutated in the revenue records, the petitioner is unable to apply for regularization of non-agricultural use. The learned counsel appearing for the petitioner submitted that the Planning Authority is insisting upon production of a

copy of 7/12 extract and NA permission for processing the application made by the petitioner for regularization. He submitted that after making mutation entry, the procedure under section 150 of the said Code has not been followed. The learned AGP has no instructions.

3. We have considered the submissions. Section 150 of the said Code contains exhaustive provisions regarding making of mutation entries and the testing and certification of the mutation entries. From Exhibit-L it appears that Mutation Entry No.239 has been made by the Village Talathi in terms of sub-section (1) of section 150. No further steps appear to have been taken such as issuing notice to the interested persons as required by sub-section (2), receiving objections to the mutation entry, deciding the objections to the mutation entry, testing mutation entry and certifying the same, if it is found to be correct as required by sub-section (6) of section 150.

4. Therefore, further steps as contemplated by sub-section (2) of section 150 onwards will have to be taken within a time bound programme. As far as prayer clause (b) is concerned, the petitioner will have to make appropriate application to the concerned authority for grant of NA permission.

5. Accordingly, we dispose of this petition by passing the following order:

- (i) We direct the State Government to take appropriate steps starting from sub-section (2) of section 150 and

ending with sub-section (6) of section 150 of the said Code as expeditiously as possible and, in any rate, within a period of two months from today;

- (ii) If an application is made by the petitioner for grant of permission for non-agricultural use of the subject property, such application shall be decided by the Collector as expeditiously as possible and, in any rate, within a maximum period of 90 days as contemplated by section 44 of the said Code;
- (iii) With the above directions, petition is disposed of;
- (iv) All concerned to act on an authenticated copy of this order.

(SANDEEP K. SHINDE, J.)

(A.S.OKA, J.)