

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5425 OF 2018

Mr.Pradeep J. Thorat for the Petitioner
Mr.Rajan Pawar, AGP for the respondent No.1
Mr.Anil Mishra for intervenor

P.C.:

2 The challenge in this petition is to the Judgment and Order dated 7th March 2018 passed by the Hon'ble Minister of State of Urban Development Department of the State of Maharashtra. By the said order, appeal preferred by the petitioners under section 47 of the Maharashtra Regional and Town Planning Act, 1966 (for short 'MRTP Act') has been dismissed. Considering the nature of the impugned order, we issue Rule. The respondents waive service. Forthwith taken up for final disposal.

3 We have perused the impugned order with the assistance of the learned counsel for the parties. Paragraph 8 of the impugned order purports to record reasons. There are four sub paragraphs (a) to (d) in paragraph 8. Sub paragraphs (a) to (c) contain only factual statements. In sub paragraph (d), in one line it is mentioned that the reasons assigned by the second respondent-Municipal Corporation for rejecting the application made by the appellant are proper and therefore, there is no merit in the appeal.

4 Under section 47 of the MRTP Act, the State Government exercises quasi judicial power. As Appellate Authority, the State Government is expected to record reasons for rejecting the contentions raised by the appellants. In the present case, no reasons whatsoever have been recorded by the State Government and therefore, the impugned order stands vitiated.

5 Hence, we pass the following order:

(I) The impugned order dated 7th March 2018 passed by the State Government is hereby set aside and the appeal preferred by the petitioner is restored to the file of the State Government;

(II) We direct the petitioner to appear before the Appellate Authority on 6th June 2018 at 3.00 p.m for fixing the schedule of hearing;

(III) The Appellate Authority shall decide the appeal as expeditiously as possible and in any event within a period of two months from 6th June 2018;

(IV) All contentions on merits are kept open;

(V) Rule is made absolute on above terms.

6 At this stage the learned counsel appearing for Ms Kanchan Lulla and Mr. Amrut Lulla states that his clients may be permitted to intervene in the restored appeal. It is for the third party to make an application in that behalf to the Appellate Authority and this Court cannot issue such a direction.

(RIYAZ.I.CHAGLA,J.)

(A.S.OKA,J.)