

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

WRIT PETITION NO.10419 of 2016

Rashid Boman Parva & Ors.

...Petitioners

Versus

Iraj Sam Irani & Ors.

...Respondents

.....

Mr. M.M. Sathaye for the Petitioners.

**CORAM : RANJIT MORE AND
SMT. ANUJA PRABHUDESSAI, JJ.**

DATED: 17th JANUARY, 2018.

P.C.:-

Heard. The Petitioners by this Petition filed under Article 226 of the Constitution of India has challenged the 3rd extension of period of development permission.

2. Mr. Sathaye, the learned counsel for the Petitioners relying upon the first proviso to Section 48 of the M.R.T.P. Act submitted that the extended period exceeds three years and therefore, the impugned order cannot be sustained.

3. Section 48 of the M.R.T.P. Act, which deals with lapsing of permission, reads as follows :-

“48. Lapse of permission

Every permission for development granted or deemed to be granted under section 45 or granted under section 47 shall remain in force for a period of one year from the date of receipt of such grant, and thereafter it shall lapse:

Provided that, the Planning Authority, may, on application made to it extend such period from year to year; but such extended period shall in no case exceed three years.”

4. Perusal of the impugned order shows that the first permission or development was granted on 26.7.2010 and obviously that remained in force for one year. Under the first proviso of the Section 48, the Planning Authority is authorised to extend the period of permission for development from year to year but such extended period shall in no case exceed three years. In the present case, three extensions were granted and by the 3rd extension, period was extended till 25.7.2014. It is obvious that the extended period has not exceeded period of three years.

5. Be that as it may, the impugned order was passed on

20.1.2014. The Petition is filed on 4.7.2016 almost two and half years after the impugned order was passed. In paragraph 9 of the petition averments are made that the Petitioners had come across the commencement certificate and fact of large scale construction only in October-2014 and thereafter obtained all the necessary papers and filed the present Petition. The fact remains that the Petitioners were aware about the development by the Respondents and the impugned order way back in October-2014. The Petition is hit by latches. On this count also we are not inclined to entertain the Petition.

6. In the light of above, there is no merit in the Petition. The Petition is accordingly dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)